

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 ARTICLE I. SHORT TITLE, PRIOR LAW, AND DEFINITIONS

5 Section 1-101. Short title. This Act may be cited as the
6 MC/DD Act.

7 Section 1-101.05. Prior law.

8 (a) This Act provides for the licensure of medically
9 complex for the developmentally disabled facilities. On and
10 after the effective date of this Act, long-term care for under
11 age 22 facilities shall be known and licensed as medically
12 complex for the developmentally disabled facilities under this
13 Act instead of the ID/DD Community Care Act. On the effective
14 date of this Act, any long-term care for under age 22 facility
15 that holds a valid license on the effective date of this Act
16 shall be granted a license as a medically complex for the
17 developmentally disabled facility and shall not be licensed as
18 a long-term care for under age 22 facility under the ID/DD
19 Community Care Act.

20 (b) If any other Act of the General Assembly changes, adds,
21 or repeals a provision of the ID/DD Community Care Act that is
22 the same as or substantially similar to a provision of this

1 Act, then that change, addition, or repeal in the ID/DD
2 Community Care Act shall be construed together with this Act
3 until July 1, 2015 and not thereafter.

4 (c) Nothing in this Act affects the validity or effect of
5 any finding, decision, or action made or taken by the
6 Department or the Director under the ID/DD Community Care Act
7 before the effective date of this Act with respect to a
8 facility subject to licensure under this Act. That finding,
9 decision, or action shall continue to apply to the facility on
10 and after the effective date of this Act. Any finding,
11 decision, or action with respect to the facility made or taken
12 on or after the effective date of this Act shall be made or
13 taken as provided in this Act.

14 Section 1-102. Definitions. For the purposes of this Act,
15 unless the context otherwise requires, the terms defined in
16 this Article have the meanings ascribed to them herein.

17 Section 1-103. Abuse. "Abuse" means any physical or mental
18 injury or sexual assault inflicted on a resident other than by
19 accidental means in a facility.

20 Section 1-104. Access. "Access" means the right to:

21 (1) Enter any facility;

22 (2) Communicate privately and without restriction with
23 any resident who consents to the communication;

1 (3) Seek consent to communicate privately and without
2 restriction with any resident;

3 (4) Inspect the clinical and other records of a
4 resident with the express written consent of the resident;
5 or

6 (5) Observe all areas of the facility except the living
7 area of any resident who protests the observation.

8 Section 1-105. Administrator. "Administrator" means a
9 person who is charged with the general administration and
10 supervision of a facility and licensed, if required, under the
11 Nursing Home Administrators Licensing and Disciplinary Act, as
12 now or hereafter amended.

13 Section 1-106. Affiliate. "Affiliate" means:

14 (1) With respect to a partnership, each partner
15 thereof.

16 (2) With respect to a corporation, each officer,
17 director and stockholder thereof.

18 (3) With respect to a natural person: any person
19 related in the first degree of kinship to that person; each
20 partnership and each partner thereof of which that person
21 or any affiliate of that person is a partner; and each
22 corporation in which that person or any affiliate of that
23 person is an officer, director or stockholder.

1 Section 1-107. Applicant. "Applicant" means any person
2 making application for a license.

3 Section 1-108.1. Complaint classification. "Complaint
4 classification" means the Department shall categorize reports
5 about conditions, care or services in a facility into one of
6 three groups after an investigation:

7 (1) "An invalid report" means any report made under
8 this Act for which it is determined after an investigation
9 that no credible evidence of abuse, neglect or other
10 deficiency relating to the complaint exists;

11 (2) "A valid report" means a report made under this Act
12 if an investigation determines that some credible evidence
13 of the alleged abuse, neglect or other deficiency relating
14 to the complaint exists; and

15 (3) "An undetermined report" means a report made under
16 this Act in which it was not possible to initiate or
17 complete an investigation on the basis of information
18 provided to the Department.

19 Section 1-109. Department. "Department" means the
20 Department of Public Health.

21 Section 1-110. Director. "Director" means the Director of
22 Public Health or his or her designee.

1 Section 1-111. Discharge. "Discharge" means the full
2 release of any resident from a facility.

3 Section 1-111.05. Distressed facility. "Distressed
4 facility" means a facility determined by the Department to be a
5 distressed facility pursuant to Section 3-304.2 of this Act.

6 Section 1-112. Emergency. "Emergency" means a situation,
7 physical condition or one or more practices, methods or
8 operations which present imminent danger of death or serious
9 physical or mental harm to residents of a facility.

10 Section 1-113. Facility. "MC/DD facility" or "facility"
11 means a medically complex for the developmentally disabled
12 facility, whether operated for profit or not, which provides,
13 through its ownership or management, personal care or nursing
14 for 3 or more persons not related to the applicant or owner by
15 blood or marriage.

16 "Facility" does not include the following:

17 (1) A home, institution, or other place operated by the
18 federal government or agency thereof, or by the State of
19 Illinois, other than homes, institutions, or other places
20 operated by or under the authority of the Illinois
21 Department of Veterans' Affairs;

22 (2) A hospital, sanitarium, or other institution whose
23 principal activity or business is the diagnosis, care, and

1 treatment of human illness through the maintenance and
2 operation as organized facilities therefore, which is
3 required to be licensed under the Hospital Licensing Act;

4 (3) Any "facility for child care" as defined in the
5 Child Care Act of 1969;

6 (4) Any "community living facility" as defined in the
7 Community Living Facilities Licensing Act;

8 (5) Any "community residential alternative" as defined
9 in the Community Residential Alternatives Licensing Act;

10 (6) Any nursing home or sanatorium operated solely by
11 and for persons who rely exclusively upon treatment by
12 spiritual means through prayer, in accordance with the
13 creed or tenets of any well recognized church or religious
14 denomination. However, such nursing home or sanatorium
15 shall comply with all local laws and rules relating to
16 sanitation and safety;

17 (7) Any facility licensed by the Department of Human
18 Services as a community-integrated living arrangement as
19 defined in the Community-Integrated Living Arrangements
20 Licensure and Certification Act;

21 (8) Any facility licensed under the Nursing Home Care
22 Act;

23 (9) Any ID/DD facility under the ID/DD Community Care
24 Act;

25 (10) Any "supportive residence" licensed under the
26 Supportive Residences Licensing Act;

1 (11) Any "supportive living facility" in good standing
2 with the program established under Section 5-5.01a of the
3 Illinois Public Aid Code, except only for purposes of the
4 employment of persons in accordance with Section 3-206.01;

5 (12) Any assisted living or shared housing
6 establishment licensed under the Assisted Living and
7 Shared Housing Act, except only for purposes of the
8 employment of persons in accordance with Section 3-206.01;

9 (13) An Alzheimer's disease management center
10 alternative health care model licensed under the
11 Alternative Health Care Delivery Act; or

12 (14) A home, institution, or other place operated by or
13 under the authority of the Illinois Department of Veterans'
14 Affairs.

15 Section 1-114. Guardian. "Guardian" means a person
16 appointed as a guardian of the person or guardian of the
17 estate, or both, of a resident under the "Probate Act of 1975",
18 as now or hereafter amended.

19 Section 1-114.001. Habilitation. "Habilitation" means an
20 effort directed toward increasing a person's level of physical,
21 mental, social, or economic functioning. Habilitation may
22 include, but is not limited to, diagnosis, evaluation, medical
23 services, residential care, day care, special living
24 arrangements, training, education, employment services,

1 protective services, and counseling.

2 Section 1-114.01. Identified offender. "Identified
3 offender" means a person who meets any of the following
4 criteria:

5 (1) Has been convicted of, found guilty of, adjudicated
6 delinquent for, found not guilty by reason of insanity for,
7 or found unfit to stand trial for any felony offense listed
8 in Section 25 of the Health Care Worker Background Check
9 Act, except for the following:

10 (i) a felony offense described in Section 10-5 of
11 the Nurse Practice Act;

12 (ii) a felony offense described in Section 4, 5, 6,
13 8, or 17.02 of the Illinois Credit Card and Debit Card
14 Act;

15 (iii) a felony offense described in Section 5, 5.1,
16 5.2, 7, or 9 of the Cannabis Control Act;

17 (iv) a felony offense described in Section 401,
18 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
19 Controlled Substances Act; and

20 (v) a felony offense described in the
21 Methamphetamine Control and Community Protection Act.

22 (2) Has been convicted of, adjudicated delinquent for,
23 found not guilty by reason of insanity for, or found unfit
24 to stand trial for, any sex offense as defined in
25 subsection (c) of Section 10 of the Sex Offender Management

1 Board Act.

2 (3) Is any other resident as determined by the
3 Department of State Police.

4 Section 1-114.1. Immediate family. "Immediate family"
5 means the spouse, an adult child, a parent, an adult brother or
6 sister, or an adult grandchild of a person.

7 Section 1-114.005. High-risk designation. "High-risk
8 designation" means a designation of a provision of the Illinois
9 Administrative Code that has been identified by the Department
10 through rulemaking to be inherently necessary to protect the
11 health, safety, and welfare of a resident.

12 Section 1-115. Licensee. "Licensee" means the individual
13 or entity licensed by the Department to operate the facility.

14 Section 1-116. Maintenance. "Maintenance" means food,
15 shelter and laundry services.

16 Section 1-116.5. Misappropriation of a resident's
17 property. "Misappropriation of a resident's property" means
18 the deliberate misplacement, exploitation, or wrongful
19 temporary or permanent use of a resident's belongings or money
20 without the resident's consent.

1 Section 1-117. Neglect. "Neglect" means a failure in a
2 facility to provide adequate medical or personal care or
3 maintenance, which failure results in physical or mental injury
4 to a resident or in the deterioration of a resident's physical
5 or mental condition.

6 Section 1-118. Nurse. "Nurse" means a registered nurse or a
7 licensed practical nurse as defined in the Nurse Practice Act.

8 Section 1-119. Owner. "Owner" means the individual,
9 partnership, corporation, association or other person who owns
10 a facility. In the event a facility is operated by a person who
11 leases the physical plant, which is owned by another person,
12 "owner" means the person who operates the facility, except that
13 if the person who owns the physical plant is an affiliate of
14 the person who operates the facility and has significant
15 control over the day to day operations of the facility, the
16 person who owns the physical plant shall incur jointly and
17 severally with the owner all liabilities imposed on an owner
18 under this Act.

19 Section 1-120. Personal care. "Personal care" means
20 assistance with meals, dressing, movement, bathing or other
21 personal needs or maintenance, or general supervision and
22 oversight of the physical and mental well being of an
23 individual, who is incapable of maintaining a private,

1 independent residence or who is incapable of managing his or
2 her person whether or not a guardian has been appointed for
3 such individual.

4 Section 1-120.3. Provisional admission period.
5 "Provisional admission period" means the time between the
6 admission of an identified offender as defined in Section
7 1-114.01 of this Act and 3 days following the admitting
8 facility's receipt of an Identified Offender Report and
9 Recommendation in accordance with Section 2-201.6 of this Act.

10 Section 1-121. Reasonable hour. "Reasonable hour" means
11 any time between the hours of 10 a.m. and 8 p.m. daily.

12 Section 1-122. Resident. "Resident" means a person
13 receiving personal or medical care, including, but not limited
14 to, habilitation, psychiatric services, therapeutic services,
15 and assistance with activities of daily living from a facility.

16 Section 1-123. Resident's representative. "Resident's
17 representative" means a person other than the owner, or an
18 agent or employee of a facility not related to the resident,
19 designated in writing by a resident to be his or her
20 representative, or the resident's guardian, or the parent of a
21 minor resident for whom no guardian has been appointed.

1 Section 1-125. Stockholder. "Stockholder" of a corporation
2 means any person who, directly or indirectly, beneficially
3 owns, holds or has the power to vote, at least 5% of any class
4 of securities issued by the corporation.

5 Section 1-125.1. Student intern. "Student intern" means
6 any person whose total term of employment in any facility
7 during any 12-month period is equal to or less than 90
8 continuous days, and whose term of employment is either:

9 (1) an academic credit requirement in a high school or
10 undergraduate institution, or

11 (2) immediately succeeds a full quarter, semester or
12 trimester of academic enrollment in either a high school or
13 undergraduate institution, provided that such person is
14 registered for another full quarter, semester or trimester
15 of academic enrollment in either a high school or
16 undergraduate institution which quarter, semester or
17 trimester will commence immediately following the term of
18 employment.

19 Section 1-126. Title XVIII. "Title XVIII" means Title XVIII
20 of the federal Social Security Act as now or hereafter amended.

21 Section 1-127. Title XIX. "Title XIX" means Title XIX of
22 the federal Social Security Act as now or hereafter amended.

1 Section 1-128. Transfer. "Transfer" means a change in
2 status of a resident's living arrangements from one facility to
3 another facility.

4 Section 1-128.5. Type "AA" violation. A "Type 'AA'
5 violation" means a violation of this Act or of the rules
6 promulgated thereunder that creates a condition or occurrence
7 relating to the operation and maintenance of a facility that
8 proximately caused a resident's death.

9 Section 1-129. Type "A" violation. A "Type 'A' violation"
10 means a violation of this Act or of the rules promulgated
11 thereunder which creates a condition or occurrence relating to
12 the operation and maintenance of a facility that (i) creates a
13 substantial probability that the risk of death or serious
14 mental or physical harm to a resident will result therefrom or
15 (ii) has resulted in actual physical or mental harm to a
16 resident.

17 Section 1-130. Type "B" violation. A "Type 'B' violation"
18 means a violation of this Act or of the rules promulgated
19 thereunder which (i) creates a condition or occurrence relating
20 to the operation and maintenance of a facility that is more
21 likely than not to cause more than minimal physical or mental
22 harm to a resident or (ii) is specifically designated as a Type
23 "B" violation in this Act.

1 Section 1-132. Type "C" violation. A "Type 'C' violation"
2 means a violation of this Act or of the rules promulgated
3 thereunder that creates a condition or occurrence relating to
4 the operation and maintenance of a facility that creates a
5 substantial probability that less than minimal physical or
6 mental harm to a resident will result therefrom.

7 ARTICLE II. RIGHTS AND RESPONSIBILITIES

8 PART 1. RESIDENT RIGHTS

9 Section 2-101. Constitutional and legal rights. No
10 resident shall be deprived of any rights, benefits, or
11 privileges guaranteed by law, the Constitution of the State of
12 Illinois, or the Constitution of the United States solely on
13 account of his or her status as a resident of a facility.

14 Section 2-101.1. Spousal impoverishment. All new residents
15 and their spouses shall be informed on admittance of their
16 spousal impoverishment rights as defined at Section 5-4 of the
17 Illinois Public Aid Code, as now or hereafter amended and at
18 Section 303 of Title III of the Medicare Catastrophic Coverage
19 Act of 1988 (P.L. 100-360).

20 Section 2-102. Financial affairs. A resident shall be

1 permitted to manage his or her own financial affairs unless he
2 or she or his or her guardian or if the resident is a minor, his
3 or her parent, authorizes the administrator of the facility in
4 writing to manage such resident's financial affairs under
5 Section 2-201 of this Act.

6 Section 2-103. Personal property. A resident shall be
7 permitted to retain and use or wear his or her personal
8 property in his or her immediate living quarters, unless deemed
9 medically inappropriate by a physician and so documented in the
10 resident's clinical record. If clothing is provided to the
11 resident by the facility, it shall be of a proper fit.

12 The facility shall provide adequate storage space for the
13 personal property of the resident. The facility shall provide a
14 means of safeguarding small items of value for its residents in
15 their rooms or in any other part of the facility so long as the
16 residents have daily access to such valuables. The facility
17 shall make reasonable efforts to prevent loss and theft of
18 residents' property. Those efforts shall be appropriate to the
19 particular facility and may include, but are not limited to,
20 staff training and monitoring, labeling property, and frequent
21 property inventories. The facility shall develop procedures
22 for investigating complaints concerning theft of residents'
23 property and shall promptly investigate all such complaints.

24 Section 2-104. Medical treatment; records.

1 (a) A resident shall be permitted to retain the services of
2 his or her own personal physician at his or her own expense or
3 under an individual or group plan of health insurance, or under
4 any public or private assistance program providing such
5 coverage. However, the facility is not liable for the
6 negligence of any such personal physician. Every resident shall
7 be permitted to obtain from his or her own physician or the
8 physician attached to the facility complete and current
9 information concerning his or her medical diagnosis, treatment
10 and prognosis in terms and language the resident can reasonably
11 be expected to understand. Every resident shall be permitted to
12 participate in the planning of his or her total care and
13 medical treatment to the extent that his or her condition
14 permits. No resident shall be subjected to experimental
15 research or treatment without first obtaining his or her
16 informed, written consent. The conduct of any experimental
17 research or treatment shall be authorized and monitored by an
18 institutional review board appointed by the Director. The
19 membership, operating procedures and review criteria for the
20 institutional review board shall be prescribed under rules and
21 regulations of the Department and shall comply with the
22 requirements for institutional review boards established by
23 the federal Food and Drug Administration. No person who has
24 received compensation in the prior 3 years from an entity that
25 manufactures, distributes, or sells pharmaceuticals,
26 biologics, or medical devices may serve on the institutional

1 review board.

2 The institutional review board may approve only research or
3 treatment that meets the standards of the federal Food and Drug
4 Administration with respect to (i) the protection of human
5 subjects and (ii) financial disclosure by clinical
6 investigators. The Office of State Long Term Care Ombudsman and
7 the State Protection and Advocacy organization shall be given
8 an opportunity to comment on any request for approval before
9 the board makes a decision. Those entities shall not be
10 provided information that would allow a potential human subject
11 to be individually identified, unless the board asks the
12 Ombudsman for help in securing information from or about the
13 resident. The board shall require frequent reporting of the
14 progress of the approved research or treatment and its impact
15 on residents, including immediate reporting of any adverse
16 impact to the resident, the resident's representative, the
17 Office of the State Long Term Care Ombudsman, and the State
18 Protection and Advocacy organization. The board may not approve
19 any retrospective study of the records of any resident about
20 the safety or efficacy of any care or treatment if the resident
21 was under the care of the proposed researcher or a business
22 associate when the care or treatment was given, unless the
23 study is under the control of a researcher without any business
24 relationship to any person or entity who could benefit from the
25 findings of the study.

26 No facility shall permit experimental research or

1 treatment to be conducted on a resident or give access to any
2 person or person's records for a retrospective study about the
3 safety or efficacy of any care or treatment without the prior
4 written approval of the institutional review board. No
5 administrator, or person licensed by the State to provide
6 medical care or treatment to any person may assist or
7 participate in any experimental research on or treatment of a
8 resident, including a retrospective study, that does not have
9 the prior written approval of the board. Such conduct shall be
10 grounds for professional discipline by the Department of
11 Financial and Professional Regulation.

12 The institutional review board may exempt from ongoing
13 review research or treatment initiated on a resident before the
14 individual's admission to a facility and for which the board
15 determines there is adequate ongoing oversight by another
16 institutional review board. Nothing in this Section shall
17 prevent a facility, any facility employee, or any other person
18 from assisting or participating in any experimental research on
19 or treatment of a resident if the research or treatment began
20 before the person's admission to a facility, until the board
21 has reviewed the research or treatment and decided to grant or
22 deny approval or to exempt the research or treatment from
23 ongoing review.

24 (b) All medical treatment and procedures shall be
25 administered as ordered by a physician. All new physician
26 orders shall be reviewed by the facility's director of nursing

1 or charge nurse designee within 24 hours after such orders have
2 been issued to assure facility compliance with such orders.

3 According to rules adopted by the Department, every woman
4 resident of child bearing age shall receive routine obstetrical
5 and gynecological evaluations as well as necessary prenatal
6 care.

7 (c) Every resident shall be permitted to refuse medical
8 treatment and to know the consequences of such action, unless
9 such refusal would be harmful to the health and safety of
10 others and such harm is documented by a physician in the
11 resident's clinical record. The resident's refusal shall free
12 the facility from the obligation to provide the treatment.

13 (d) Every resident, resident's guardian, or parent if the
14 resident is a minor shall be permitted to inspect and copy all
15 his or her clinical and other records concerning his or her
16 care and maintenance kept by the facility or by his or her
17 physician. The facility may charge a reasonable fee for
18 duplication of a record.

19 Section 2-104.1. Transfer of facility ownership after
20 license suspension or revocation. Whenever ownership of a
21 private facility is transferred to another private owner
22 following a final order for a suspension or revocation of the
23 facility's license, the new owner, if the Department so
24 determines, shall thoroughly evaluate the condition and needs
25 of each resident as if each resident were being newly admitted

1 to the facility. The evaluation shall include a review of the
2 medical record and the conduct of a physical examination of
3 each resident which shall be performed within 30 days after the
4 transfer of ownership.

5 Section 2-104.2. Do Not Resuscitate Orders. Every facility
6 licensed under this Act shall establish a policy for the
7 implementation of physician orders limiting resuscitation such
8 as those commonly referred to as "Do Not Resuscitate" orders.
9 This policy may only prescribe the format, method of
10 documentation and duration of any physician orders limiting
11 resuscitation. Any orders under this policy shall be honored by
12 the facility. The Department of Public Health Uniform DNR/POLST
13 form or a copy of that form or a previous version of the
14 uniform form shall be honored by the facility.

15 Section 2-105. Privacy. A resident shall be permitted
16 respect and privacy in his or her medical and personal care
17 program. Every resident's case discussion, consultation,
18 examination and treatment shall be confidential and shall be
19 conducted discreetly, and those persons not directly involved
20 in the resident's care must have the resident's permission to
21 be present.

22 Section 2-106. Restraints and confinements.

23 (a) For purposes of this Act:

1 (i) A physical restraint is any manual method or
2 physical or mechanical device, material, or equipment
3 attached or adjacent to a resident's body that the resident
4 cannot remove easily and restricts freedom of movement or
5 normal access to one's body. Devices used for positioning,
6 including but not limited to bed rails, gait belts, and
7 cushions, shall not be considered to be restraints for
8 purposes of this Section.

9 (ii) A chemical restraint is any drug used for
10 discipline or convenience and not required to treat medical
11 symptoms. The Department shall by rule, designate certain
12 devices as restraints, including at least all those devices
13 which have been determined to be restraints by the United
14 States Department of Health and Human Services in
15 interpretive guidelines issued for the purposes of
16 administering Titles XVIII and XIX of the Social Security
17 Act.

18 (b) Neither restraints nor confinements shall be employed
19 for the purpose of punishment or for the convenience of any
20 facility personnel. No restraints or confinements shall be
21 employed except as ordered by a physician who documents the
22 need for such restraints or confinements in the resident's
23 clinical record. Each facility licensed under this Act must
24 have a written policy to address the use of restraints and
25 seclusion. The Department shall establish by rule the
26 provisions that the policy must include, which, to the extent

1 practicable, should be consistent with the requirements for
2 participation in the federal Medicare program. Each policy
3 shall include periodic review of the use of restraints.

4 (c) A restraint may be used only with the informed consent
5 of the resident, the resident's guardian, or other authorized
6 representative. A restraint may be used only for specific
7 periods, if it is the least restrictive means necessary to
8 attain and maintain the resident's highest practicable
9 physical, mental or psychosocial well being, including brief
10 periods of time to provide necessary life saving treatment. A
11 restraint may be used only after consultation with appropriate
12 health professionals, such as occupational or physical
13 therapists, and a trial of less restrictive measures has led to
14 the determination that the use of less restrictive measures
15 would not attain or maintain the resident's highest practicable
16 physical, mental or psychosocial well being. However, if the
17 resident needs emergency care, restraints may be used for brief
18 periods to permit medical treatment to proceed unless the
19 facility has notice that the resident has previously made a
20 valid refusal of the treatment in question.

21 (d) A restraint may be applied only by a person trained in
22 the application of the particular type of restraint.

23 (e) Whenever a period of use of a restraint is initiated,
24 the resident shall be advised of his or her right to have a
25 person or organization of his or her choosing, including the
26 Guardianship and Advocacy Commission, notified of the use of

1 the restraint. A recipient who is under guardianship may
2 request that a person or organization of his or her choosing be
3 notified of the restraint, whether or not the guardian approves
4 the notice. If the resident so chooses, the facility shall make
5 the notification within 24 hours, including any information
6 about the period of time that the restraint is to be used.
7 Whenever the Guardianship and Advocacy Commission is notified
8 that a resident has been restrained, it shall contact the
9 resident to determine the circumstances of the restraint and
10 whether further action is warranted.

11 (f) Whenever a restraint is used on a resident whose
12 primary mode of communication is sign language, the resident
13 shall be permitted to have his or her hands free from restraint
14 for brief periods each hour, except when this freedom may
15 result in physical harm to the resident or others.

16 (g) The requirements of this Section are intended to
17 control in any conflict with the requirements of Sections 1-126
18 and 2-108 of the Mental Health and Developmental Disabilities
19 Code.

20 Section 2-106.1. Drug treatment.

21 (a) A resident shall not be given unnecessary drugs. An
22 unnecessary drug is any drug used in an excessive dose,
23 including in duplicative therapy; for excessive duration;
24 without adequate monitoring; without adequate indications for
25 its use; or in the presence of adverse consequences that

1 indicate the drugs should be reduced or discontinued. The
2 Department shall adopt, by rule, the standards for unnecessary
3 drugs contained in interpretive guidelines issued by the United
4 States Department of Health and Human Services for the purposes
5 of administering Titles XVIII and XIX of the Social Security
6 Act.

7 (b) Psychotropic medication shall not be administered
8 without the informed consent of the resident, the resident's
9 guardian, or other authorized representative. "Psychotropic
10 medication" means medication that is used for or listed as used
11 for antipsychotic, antidepressant, antimanic, or antianxiety
12 behavior modification or behavior management purposes in the
13 latest editions of the AMA Drug Evaluations or the Physician's
14 Desk Reference. The Department shall adopt, by rule, a protocol
15 specifying how informed consent for psychotropic medication
16 may be obtained or refused. The protocol shall require, at a
17 minimum, a discussion between (1) the resident or the
18 resident's authorized representative and (2) the resident's
19 physician, a registered pharmacist who is not a dispensing
20 pharmacist for the facility where the resident lives, or a
21 licensed nurse about the possible risks and benefits of a
22 recommended medication and the use of standardized consent
23 forms designated by the Department. Each form developed by the
24 Department (i) shall be written in plain language, (ii) shall
25 be able to be downloaded from the Department's official
26 website, (iii) shall include information specific to the

1 psychotropic medication for which consent is being sought, and
2 (iv) shall be used for every resident for whom psychotropic
3 drugs are prescribed. In addition to creating those forms, the
4 Department shall approve the use of any other informed consent
5 forms that meet criteria developed by the Department.

6 In addition to any other requirement prescribed by law, a
7 facility that is found to have violated this subsection or the
8 federal certification requirement that informed consent be
9 obtained before administering a psychotropic medication shall
10 for 3 years after the notice of violation be required to (A)
11 obtain the signatures of 2 licensed health care professionals
12 on every form purporting to give informed consent for the
13 administration of a psychotropic medication, certifying the
14 personal knowledge of each health care professional that the
15 consent was obtained in compliance with the requirements of
16 this subsection or (B) videotape or make a digital video record
17 of the procedures followed by the facility to comply with the
18 requirements of this subsection.

19 (c) The requirements of this Section are intended to
20 control in a conflict with the requirements of Sections 2-102
21 and 2-107.2 of the Mental Health and Developmental Disabilities
22 Code with respect to the administration of psychotropic
23 medication.

24 Section 2-106a. Resident identification wristlet. No
25 identification wristlets shall be employed except as ordered by

1 a physician who documents the need for such mandatory
2 identification in the resident's clinical record. When
3 identification bracelets are required, they must identify the
4 resident's name, and the name and address of the facility
5 issuing the identification wristlet.

6 Section 2-107. Abuse or neglect; duty to report. An owner,
7 licensee, administrator, employee or agent of a facility shall
8 not abuse or neglect a resident. It is the duty of any facility
9 employee or agent who becomes aware of such abuse or neglect to
10 report it as provided in the Abused and Neglected Long Term
11 Care Facility Residents Reporting Act.

12 Section 2-108. Communications; visits; married residents.
13 Every resident shall be permitted unimpeded, private and
14 uncensored communication of his or her choice by mail, public
15 telephone or visitation.

16 (a) The administrator shall ensure that correspondence is
17 conveniently received and mailed, and that telephones are
18 reasonably accessible.

19 (b) The administrator shall ensure that residents may have
20 private visits at any reasonable hour unless such visits are
21 not medically advisable for the resident as documented in the
22 resident's clinical record by the resident's physician.

23 (c) The administrator shall ensure that space for visits is
24 available and that facility personnel knock, except in an

1 emergency, before entering any resident's room.

2 (d) Unimpeded, private and uncensored communication by
3 mail, public telephone and visitation may be reasonably
4 restricted by a physician only in order to protect the resident
5 or others from harm, harassment or intimidation, provided that
6 the reason for any such restriction is placed in the resident's
7 clinical record by the physician and that notice of such
8 restriction shall be given to all residents upon admission.
9 However, all letters addressed by a resident to the Governor,
10 members of the General Assembly, Attorney General, judges,
11 state's attorneys, officers of the Department, or licensed
12 attorneys at law shall be forwarded at once to the persons to
13 whom they are addressed without examination by facility
14 personnel. Letters in reply from the officials and attorneys
15 mentioned above shall be delivered to the recipient without
16 examination by facility personnel.

17 (e) The administrator shall ensure that married residents
18 residing in the same facility be allowed to reside in the same
19 room within the facility unless there is no room available in
20 the facility or it is deemed medically inadvisable by the
21 residents' attending physician and so documented in the
22 residents' medical records.

23 Section 2-109. Religion. A resident shall be permitted the
24 free exercise of religion. Upon a resident's request, and if
25 necessary at the resident's expense, the administrator shall

1 make arrangements for a resident's attendance at religious
2 services of the resident's choice. However, no religious
3 beliefs or practices, or attendance at religious services, may
4 be imposed upon any resident.

5 Section 2-110. Access to residents.

6 (a) Any employee or agent of a public agency, any
7 representative of a community legal services program or any
8 other member of the general public shall be permitted access at
9 reasonable hours to any individual resident of any facility,
10 but only if there is neither a commercial purpose nor effect to
11 such access and if the purpose is to do any of the following:

12 (1) Visit, talk with and make personal, social and
13 legal services available to all residents;

14 (2) Inform residents of their rights and entitlements
15 and their corresponding obligations, under federal and
16 State laws, by means of educational materials and
17 discussions in groups and with individual residents;

18 (3) Assist residents in asserting their legal rights
19 regarding claims for public assistance, medical assistance
20 and social security benefits, as well as in all other
21 matters in which residents are aggrieved. Assistance may
22 include counseling and litigation; or

23 (4) Engage in other methods of asserting, advising and
24 representing residents so as to extend to them full
25 enjoyment of their rights.

1 (a-5) If a resident of a licensed facility is an identified
2 offender, any federal, State, or local law enforcement officer
3 or county probation officer shall be permitted reasonable
4 access to the individual resident to verify compliance with the
5 requirements of the Sex Offender Registration Act or to verify
6 compliance with applicable terms of probation, parole,
7 aftercare release, or mandatory supervised release.

8 (b) All persons entering a facility under this Section
9 shall promptly notify appropriate facility personnel of their
10 presence. They shall, upon request, produce identification to
11 establish their identity. No such person shall enter the
12 immediate living area of any resident without first identifying
13 himself or herself and then receiving permission from the
14 resident to enter. The rights of other residents present in the
15 room shall be respected. A resident may terminate at any time a
16 visit by a person having access to the resident's living area
17 under this Section.

18 (c) This Section shall not limit the power of the
19 Department or other public agency otherwise permitted or
20 required by law to enter and inspect a facility.

21 (d) Notwithstanding paragraph (a) of this Section, the
22 administrator of a facility may refuse access to the facility
23 to any person if the presence of that person in the facility
24 would be injurious to the health and safety of a resident or
25 would threaten the security of the property of a resident or
26 the facility, or if the person seeks access to the facility for

1 commercial purposes. Any person refused access to a facility
2 may within 10 days request a hearing under Section 3-703. In
3 that proceeding, the burden of proof as to the right of the
4 facility to refuse access under this Section shall be on the
5 facility.

6 Section 2-111. Discharge. A resident may be discharged from
7 a facility after he or she gives the administrator, a
8 physician, or a nurse of the facility written notice of his or
9 her desire to be discharged. If a guardian has been appointed
10 for a resident or if the resident is a minor, the resident
11 shall be discharged upon written consent of his or her guardian
12 or if the resident is a minor, his or her parent unless there
13 is a court order to the contrary. In such cases, upon the
14 resident's discharge, the facility is relieved from any
15 responsibility for the resident's care, safety or well being.

16 Section 2-112. Grievances. A resident shall be permitted to
17 present grievances on behalf of himself or herself or others to
18 the administrator, the DD Facility Advisory Board established
19 under Section 2-204 of the ID/DD Community Care Act, the
20 residents' advisory council, State governmental agencies or
21 other persons without threat of discharge or reprisal in any
22 form or manner whatsoever. The administrator shall provide all
23 residents or their representatives with the name, address, and
24 telephone number of the appropriate State governmental office

1 where complaints may be lodged.

2 Section 2-113. Labor. A resident may refuse to perform
3 labor for a facility.

4 Section 2-114. Unlawful discrimination. No resident shall
5 be subjected to unlawful discrimination as defined in Section
6 1-103 of the Illinois Human Rights Act by any owner, licensee,
7 administrator, employee, or agent of a facility. Unlawful
8 discrimination does not include an action by any owner,
9 licensee, administrator, employee, or agent of a facility that
10 is required by this Act or rules adopted under this Act.

11 Section 2-115. Right to notification of violations.
12 Residents and their guardians or other resident
13 representatives, if any, shall be notified of any violation of
14 this Act or the rules promulgated thereunder pursuant to
15 Section 2-217 of this Act, or of violations of the requirements
16 of Titles XVIII or XIX of the Social Security Act or rules
17 promulgated thereunder, with respect to the health, safety, or
18 welfare of the resident.

19 PART 2. RESPONSIBILITIES

20 Section 2-201. Residents' funds. To protect the residents'
21 funds, the facility:

1 (1) Shall at the time of admission provide, in order of
2 priority, each resident, or the resident's guardian, if any, or
3 the resident's representative, if any, or the resident's
4 immediate family member, if any, with a written statement
5 explaining to the resident and to the resident's spouse (a)
6 their spousal impoverishment rights, as defined at Section 5-4
7 of the Illinois Public Aid Code, and at Section 303 of Title
8 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.
9 100-360), and (b) the resident's rights regarding personal
10 funds and listing the services for which the resident will be
11 charged. The facility shall obtain a signed acknowledgment from
12 each resident or the resident's guardian, if any, or the
13 resident's representative, if any, or the resident's immediate
14 family member, if any, that such person has received the
15 statement.

16 (2) May accept funds from a resident for safekeeping and
17 managing, if it receives written authorization from, in order
18 of priority, the resident or the resident's guardian, if any,
19 or the resident's representative, if any, or the resident's
20 immediate family member, if any; such authorization shall be
21 attested to by a witness who has no pecuniary interest in the
22 facility or its operations, and who is not connected in any way
23 to facility personnel or the administrator in any manner
24 whatsoever.

25 (3) Shall maintain and allow, in order of priority, each
26 resident or the resident's guardian, if any, or the resident's

1 representative, if any, or the resident's immediate family
2 member, if any, access to a written record of all financial
3 arrangements and transactions involving the individual
4 resident's funds.

5 (4) Shall provide, in order of priority, each resident, or
6 the resident's guardian, if any, or the resident's
7 representative, if any, or the resident's immediate family
8 member, if any, with a written itemized statement at least
9 quarterly, of all financial transactions involving the
10 resident's funds.

11 (5) Shall purchase a surety bond, or otherwise provide
12 assurance satisfactory to the Departments of Public Health and
13 Financial and Professional Regulation that all residents'
14 personal funds deposited with the facility are secure against
15 loss, theft, and insolvency.

16 (6) Shall keep any funds received from a resident for
17 safekeeping in an account separate from the facility's funds,
18 and shall at no time withdraw any part or all of such funds for
19 any purpose other than to return the funds to the resident upon
20 the request of the resident or any other person entitled to
21 make such request, to pay the resident his or her allowance, or
22 to make any other payment authorized by the resident or any
23 other person entitled to make such authorization.

24 (7) Shall deposit any funds received from a resident in
25 excess of \$100 in an interest bearing account insured by
26 agencies of, or corporations chartered by, the State or federal

1 government. The account shall be in a form which clearly
2 indicates that the facility has only a fiduciary interest in
3 the funds and any interest from the account shall accrue to the
4 resident. The facility may keep up to \$100 of a resident's
5 money in a non-interest-bearing account or petty cash fund, to
6 be readily available for the resident's current expenditures.

7 (8) Shall return to the resident, or the person who
8 executed the written authorization required in subsection (2)
9 of this Section, upon written request, all or any part of the
10 resident's funds given the facility for safekeeping, including
11 the interest accrued from deposits.

12 (9) Shall (a) place any monthly allowance to which a
13 resident is entitled in that resident's personal account, or
14 give it to the resident, unless the facility has written
15 authorization from the resident or the resident's guardian or
16 if the resident is a minor, his parent, to handle it
17 differently, (b) take all steps necessary to ensure that a
18 personal needs allowance that is placed in a resident's
19 personal account is used exclusively by the resident or for the
20 benefit of the resident, and (c) where such funds are withdrawn
21 from the resident's personal account by any person other than
22 the resident, require such person to whom funds constituting
23 any part of a resident's personal needs allowance are released,
24 to execute an affidavit that such funds shall be used
25 exclusively for the benefit of the resident.

26 (10) Unless otherwise provided by State law, upon the death

1 of a resident, shall provide the executor or administrator of
2 the resident's estate with a complete accounting of all the
3 resident's personal property, including any funds of the
4 resident being held by the facility.

5 (11) If an adult resident is incapable of managing his or
6 her funds and does not have a resident's representative,
7 guardian, or an immediate family member, shall notify the
8 Office of the State Guardian of the Guardianship and Advocacy
9 Commission.

10 (12) If the facility is sold, shall provide the buyer with
11 a written verification by a public accountant of all residents'
12 monies and properties being transferred, and obtain a signed
13 receipt from the new owner.

14 Section 2-201.5. Screening prior to admission.

15 (a) All persons age 18 or older seeking admission to a
16 facility must be screened to determine the need for facility
17 services prior to being admitted, regardless of income, assets,
18 or funding source. In addition, any person who seeks to become
19 eligible for medical assistance from the Medical Assistance
20 Program under the Illinois Public Aid Code to pay for services
21 while residing in a facility must be screened prior to
22 receiving those benefits. Screening for facility services
23 shall be administered through procedures established by
24 administrative rule. Screening may be done by agencies other
25 than the Department as established by administrative rule.

1 (a-1) Any screening shall also include an evaluation of
2 whether there are residential supports and services or an array
3 of community services that would enable the person to live in
4 the community. The person shall be told about the existence of
5 any such services that would enable the person to live safely
6 and humanely in the least restrictive environment, that is
7 appropriate, that the individual or guardian chooses, and the
8 person shall be given the assistance necessary to avail himself
9 or herself of any available services.

10 (b) In addition to the screening required by subsection
11 (a), a facility shall, within 24 hours after admission, request
12 a criminal history background check pursuant to the Uniform
13 Conviction Information Act for all persons age 18 or older
14 seeking admission to the facility. Background checks conducted
15 pursuant to this Section shall be based on the resident's name,
16 date of birth, and other identifiers as required by the
17 Department of State Police. If the results of the background
18 check are inconclusive, the facility shall initiate a
19 fingerprint-based check, unless the fingerprint-based check is
20 waived by the Director of Public Health based on verification
21 by the facility that the resident is completely immobile or
22 that the resident meets other criteria related to the
23 resident's health or lack of potential risk which may be
24 established by Departmental rule. A waiver issued pursuant to
25 this Section shall be valid only while the resident is immobile
26 or while the criteria supporting the waiver exist. The facility

1 shall provide for or arrange for any required fingerprint-based
2 checks. If a fingerprint-based check is required, the facility
3 shall arrange for it to be conducted in a manner that is
4 respectful of the resident's dignity and that minimizes any
5 emotional or physical hardship to the resident.

6 (c) If the results of a resident's criminal history
7 background check reveal that the resident is an identified
8 offender as defined in Section 1-114.01 of this Act, the
9 facility shall do the following:

10 (1) Immediately notify the Department of State Police,
11 in the form and manner required by the Department of State
12 Police, in collaboration with the Department of Public
13 Health, that the resident is an identified offender.

14 (2) Within 72 hours, arrange for a fingerprint-based
15 criminal history record inquiry to be requested on the
16 identified offender resident. The inquiry shall be based on
17 the subject's name, sex, race, date of birth, fingerprint
18 images, and other identifiers required by the Department of
19 State Police. The inquiry shall be processed through the
20 files of the Department of State Police and the Federal
21 Bureau of Investigation to locate any criminal history
22 record information that may exist regarding the subject.
23 The Federal Bureau of Investigation shall furnish to the
24 Department of State Police, pursuant to an inquiry under
25 this paragraph (2), any criminal history record
26 information contained in its files. The facility shall

1 comply with all applicable provisions contained in the
2 Uniform Conviction Information Act. All name-based and
3 fingerprint-based criminal history record inquiries shall
4 be submitted to the Department of State Police
5 electronically in the form and manner prescribed by the
6 Department of State Police. The Department of State Police
7 may charge the facility a fee for processing name-based and
8 fingerprint-based criminal history record inquiries. The
9 fee shall be deposited into the State Police Services Fund.
10 The fee shall not exceed the actual cost of processing the
11 inquiry.

12 (d) The Department shall develop and maintain a
13 de-identified database of residents who have injured facility
14 staff, facility visitors, or other residents, and the attendant
15 circumstances, solely for the purposes of evaluating and
16 improving resident pre-screening and assessment procedures
17 (including the Criminal History Report prepared under Section
18 2-201.6 of this Act) and the adequacy of Department
19 requirements concerning the provision of care and services to
20 residents. A resident shall not be listed in the database until
21 a Department survey confirms the accuracy of the listing. The
22 names of persons listed in the database and information that
23 would allow them to be individually identified shall not be
24 made public. Neither the Department nor any other agency of
25 State government may use information in the database to take
26 any action against any individual, licensee, or other entity

1 unless the Department or agency receives the information
2 independent of this subsection (d). All information collected,
3 maintained, or developed under the authority of this subsection
4 (d) for the purposes of the database maintained under this
5 subsection (d) shall be treated in the same manner as
6 information that is subject to Part 21 of Article VIII of the
7 Code of Civil Procedure.

8 Section 2-201.6. Criminal History Report.

9 (a) The Department of State Police shall prepare a Criminal
10 History Report when it receives information, through the
11 criminal history background check required pursuant to
12 subsection (c) of Section 2-201.5 or through any other means,
13 that a resident of a facility is an identified offender.

14 (b) The Department of State Police shall complete the
15 Criminal History Report within 10 business days after receiving
16 any information described under subsection (a) of this Act that
17 a resident is an identified offender.

18 (c) The Criminal History Report shall include, but not be
19 limited to, all of the following:

20 (1) Copies of the identified offender's parole,
21 mandatory supervised release, or probation orders.

22 (2) An interview with the identified offender.

23 (3) A detailed summary of the entire criminal history
24 of the offender, including arrests, convictions, and the
25 date of the identified offender's last conviction relative

1 to the date of admission to a facility.

2 (4) If the identified offender is a convicted or
3 registered sex offender, then a review of any and all sex
4 offender evaluations conducted on that offender. If there
5 is no sex offender evaluation available, then the
6 Department of State Police shall arrange, through the
7 Department of Public Health, for a sex offender evaluation
8 to be conducted on the identified offender. If the
9 convicted or registered sex offender is under supervision
10 by the Illinois Department of Corrections or a county
11 probation department, then the sex offender evaluation
12 shall be arranged by and at the expense of the supervising
13 agency. All evaluations conducted on convicted or
14 registered sex offenders under this Act shall be conducted
15 by sex offender evaluators approved by the Sex Offender
16 Management Board.

17 (d) The Department of State Police shall provide the
18 Criminal History Report to a licensed forensic psychologist.
19 The licensed forensic psychologist shall prepare an Identified
20 Offender Report and Recommendation after (i) consideration of
21 the Criminal History Report, (ii) consultation with the
22 facility administrator or the facility medical director, or
23 both, regarding the mental and physical condition of the
24 identified offender, and (iii) reviewing the facility's file on
25 the identified offender, including all incident reports, all
26 information regarding medication and medication compliance,

1 and all information regarding previous discharges or transfers
2 from other facilities. The Identified Offender Report and
3 Recommendation shall detail whether and to what extent the
4 identified offender's criminal history necessitates the
5 implementation of security measures within the facility. If the
6 identified offender is a convicted or registered sex offender,
7 or if the Identified Offender Report and Recommendation reveals
8 that the identified offender poses a significant risk of harm
9 to others within the facility, then the offender shall be
10 required to have his or her own room within the facility.

11 (e) The licensed forensic psychologist shall complete the
12 Identified Offender Report and Recommendation within 14
13 business days after receiving the Criminal History Report and
14 shall promptly provide the Identified Offender Report and
15 Recommendation to the Department of State Police, which shall
16 provide the Identified Offender Report and Recommendation to
17 the following:

18 (1) The facility within which the identified offender
19 resides.

20 (2) The Chief of Police of the municipality in which
21 the facility is located.

22 (3) The State of Illinois Long Term Care Ombudsman.

23 (4) The Department of Public Health.

24 (f) The Department of Public Health shall keep a continuing
25 record of all residents determined to be identified offenders
26 as defined in Section 1-114.01 and shall report the number of

1 identified offender residents annually to the General
2 Assembly.

3 (g) The facility shall incorporate the Identified Offender
4 Report and Recommendation into the identified offender's
5 individual program plan created pursuant to 42 CFR 483.440(c).

6 (h) If, based on the Identified Offender Report and
7 Recommendation, a facility determines that it cannot manage the
8 identified offender resident safely within the facility, then
9 it shall commence involuntary transfer or discharge
10 proceedings pursuant to Section 3-402.

11 (i) Except for willful and wanton misconduct, any person
12 authorized to participate in the development of a Criminal
13 History Report or Identified Offender Report and
14 Recommendation is immune from criminal or civil liability for
15 any acts or omissions as the result of his or her good faith
16 effort to comply with this Section.

17 Section 2-202. Contract required.

18 (a) Before a person is admitted to a facility, or at the
19 expiration of the period of previous contract, or when the
20 source of payment for the resident's care changes from private
21 to public funds or from public to private funds, a written
22 contract shall be executed between a licensee and the following
23 in order of priority:

24 (1) the person, or if the person is a minor, his parent
25 or guardian; or

1 (2) the person's guardian, if any, or agent, if any, as
2 defined in Section 2-3 of the Illinois Power of Attorney
3 Act; or

4 (3) a member of the person's immediate family.

5 An adult person shall be presumed to have the capacity to
6 contract for admission to a facility unless he or she has been
7 adjudicated a "disabled person" within the meaning of Section
8 11a-2 of the Probate Act of 1975, or unless a petition for such
9 an adjudication is pending in a circuit court of Illinois.

10 If there is no guardian, agent or member of the person's
11 immediate family available, able or willing to execute the
12 contract required by this Section and a physician determines
13 that a person is so disabled as to be unable to consent to
14 placement in a facility, or if a person has already been found
15 to be a "disabled person", but no order has been entered
16 allowing residential placement of the person, that person may
17 be admitted to a facility before the execution of a contract
18 required by this Section; provided that a petition for
19 guardianship or for modification of guardianship is filed
20 within 15 days of the person's admission to a facility, and
21 provided further that such a contract is executed within 10
22 days of the disposition of the petition.

23 No adult shall be admitted to a facility if he or she
24 objects, orally or in writing, to such admission, except as
25 otherwise provided in Chapters III and IV of the Mental Health
26 and Developmental Disabilities Code or Section 11a-14.1 of the

1 Probate Act of 1975.

2 Before a licensee enters a contract under this Section, it
3 shall provide the prospective resident and his or her guardian,
4 if any, with written notice of the licensee's policy regarding
5 discharge of a resident whose private funds for payment of care
6 are exhausted.

7 (b) A resident shall not be discharged or transferred at
8 the expiration of the term of a contract, except as provided in
9 Sections 3-401 through 3-423.

10 (c) At the time of the resident's admission to the
11 facility, a copy of the contract shall be given to the
12 resident, his or her guardian, if any, and any other person who
13 executed the contract.

14 (d) A copy of the contract for a resident who is supported
15 by nonpublic funds other than the resident's own funds shall be
16 made available to the person providing the funds for the
17 resident's support.

18 (e) The original or a copy of the contract shall be
19 maintained in the facility and be made available upon request
20 to representatives of the Department and the Department of
21 Healthcare and Family Services.

22 (f) The contract shall be written in clear and unambiguous
23 language and shall be printed in not less than 12-point type.
24 The general form of the contract shall be prescribed by the
25 Department.

26 (g) The contract shall specify:

- 1 (1) the term of the contract;
- 2 (2) the services to be provided under the contract and
3 the charges for the services;
- 4 (3) the services that may be provided to supplement the
5 contract and the charges for the services;
- 6 (4) the sources liable for payments due under the
7 contract;
- 8 (5) the amount of deposit paid; and
- 9 (6) the rights, duties and obligations of the resident,
10 except that the specification of a resident's rights may be
11 furnished on a separate document which complies with the
12 requirements of Section 2-211.

13 (h) The contract shall designate the name of the resident's
14 representative, if any. The resident shall provide the facility
15 with a copy of the written agreement between the resident and
16 the resident's representative which authorizes the resident's
17 representative to inspect and copy the resident's records and
18 authorizes the resident's representative to execute the
19 contract on behalf of the resident required by this Section.

20 (i) The contract shall provide that if the resident is
21 compelled by a change in physical or mental health to leave the
22 facility, the contract and all obligations under it shall
23 terminate on 7 days' notice. No prior notice of termination of
24 the contract shall be required, however, in the case of a
25 resident's death. The contract shall also provide that in all
26 other situations, a resident may terminate the contract and all

1 obligations under it with 30 days' notice. All charges shall be
2 prorated as of the date on which the contract terminates, and,
3 if any payments have been made in advance, the excess shall be
4 refunded to the resident. This provision shall not apply to
5 life care contracts through which a facility agrees to provide
6 maintenance and care for a resident throughout the remainder of
7 his life nor to continuing care contracts through which a
8 facility agrees to supplement all available forms of financial
9 support in providing maintenance and care for a resident
10 throughout the remainder of his or her life.

11 (j) In addition to all other contract specifications
12 contained in this Section admission contracts shall also
13 specify:

14 (1) whether the facility accepts Medicaid clients;

15 (2) whether the facility requires a deposit of the
16 resident or his or her family prior to the establishment of
17 Medicaid eligibility;

18 (3) in the event that a deposit is required, a clear
19 and concise statement of the procedure to be followed for
20 the return of such deposit to the resident or the
21 appropriate family member or guardian of the person; and

22 (4) that all deposits made to a facility by a resident,
23 or on behalf of a resident, shall be returned by the
24 facility within 30 days of the establishment of Medicaid
25 eligibility, unless such deposits must be drawn upon or
26 encumbered in accordance with Medicaid eligibility

1 requirements established by the Department of Healthcare
2 and Family Services.

3 (k) It shall be a business offense for a facility to
4 knowingly and intentionally both retain a resident's deposit
5 and accept Medicaid payments on behalf of that resident.

6 Section 2-203. Residents' advisory council. Each facility
7 shall establish a residents' advisory council. The
8 administrator shall designate a member of the facility staff to
9 coordinate the establishment of, and render assistance to, the
10 council.

11 (a) The composition of the residents' advisory council
12 shall be specified by Department regulation, but no employee or
13 affiliate of a facility shall be a member of any council.

14 (b) The council shall meet at least once each month with
15 the staff coordinator who shall provide assistance to the
16 council in preparing and disseminating a report of each meeting
17 to all residents, the administrator, and the staff.

18 (c) Records of the council meetings will be maintained in
19 the office of the administrator.

20 (d) The residents' advisory council may communicate to the
21 administrator the opinions and concerns of the residents. The
22 council shall review procedures for implementing resident
23 rights, facility responsibilities and make recommendations for
24 changes or additions which will strengthen the facility's
25 policies and procedures as they affect residents' rights and

1 facility responsibilities.

2 (e) The council shall be a forum for:

3 (1) Obtaining and disseminating information;

4 (2) Soliciting and adopting recommendations for
5 facility programing and improvements; and

6 (3) Early identification and for recommending orderly
7 resolution of problems.

8 (f) The council may present complaints as provided in
9 Section 3-702 on behalf of a resident to the Department, the DD
10 Facility Advisory Board established under Section 2-204 of the
11 ID/DD Community Care Act or to any other person it considers
12 appropriate.

13 Section 2-205. Disclosure of information to public. The
14 following information is subject to disclosure to the public
15 from the Department or the Department of Healthcare and Family
16 Services:

17 (1) Information submitted under Sections 3-103 and
18 3-207 except information concerning the remuneration of
19 personnel licensed, registered, or certified by the
20 Department of Financial and Professional Regulation (as
21 successor to the Department of Professional Regulation)
22 and monthly charges for an individual private resident;

23 (2) Records of license and certification inspections,
24 surveys, and evaluations of facilities, other reports of
25 inspections, surveys, and evaluations of resident care,

1 whether a facility is designated a distressed facility and
2 the basis for the designation, and reports concerning a
3 facility prepared pursuant to Titles XVIII and XIX of the
4 Social Security Act, subject to the provisions of the
5 Social Security Act;

6 (3) Cost and reimbursement reports submitted by a
7 facility under Section 3-208, reports of audits of
8 facilities, and other public records concerning costs
9 incurred by, revenues received by, and reimbursement of
10 facilities; and

11 (4) Complaints filed against a facility and complaint
12 investigation reports, except that a complaint or
13 complaint investigation report shall not be disclosed to a
14 person other than the complainant or complainant's
15 representative before it is disclosed to a facility under
16 Section 3-702, and, further, except that a complainant or
17 resident's name shall not be disclosed except under Section
18 3-702. The Department shall disclose information under
19 this Section in accordance with provisions for inspection
20 and copying of public records required by the Freedom of
21 Information Act. However, the disclosure of information
22 described in subsection (1) shall not be restricted by any
23 provision of the Freedom of Information Act.

24 Section 2-206. Confidentiality of records.

25 (a) The Department shall respect the confidentiality of a

1 resident's record and shall not divulge or disclose the
2 contents of a record in a manner which identifies a resident,
3 except upon a resident's death to a relative or guardian, or
4 under judicial proceedings. This Section shall not be construed
5 to limit the right of a resident to inspect or copy the
6 resident's records.

7 (b) Confidential medical, social, personal, or financial
8 information identifying a resident shall not be available for
9 public inspection in a manner which identifies a resident.

10 Section 2-207. Directories for public health regions;
11 information concerning facility costs and policies.

12 (a) Each year the Department shall publish a Directory for
13 each public health region listing facilities to be made
14 available to the public and be available at all Department
15 offices. The Department may charge a fee for the Directory. The
16 Directory shall contain, at a minimum, the following
17 information:

18 (1) The name and address of the facility;

19 (2) The number and type of licensed beds;

20 (3) The name of the cooperating hospital, if any;

21 (4) The name of the administrator;

22 (5) The facility telephone number; and

23 (6) Membership in a provider association and
24 accreditation by any such organization.

25 (b) Detailed information concerning basic costs for care

1 and operating policies shall be available to the public upon
2 request at each facility. However, a facility may refuse to
3 make available any proprietary operating policies to the extent
4 such facility reasonably believes such policies may be revealed
5 to a competitor.

6 Section 2-208. Notice of imminent death, unusual incident,
7 abuse, or neglect.

8 (a) A facility shall immediately notify the identified
9 resident's next of kin, guardian, resident's representative,
10 and physician of the resident's death or when the resident's
11 death appears to be imminent. A facility shall immediately
12 notify the Department by telephone of a resident's death within
13 24 hours after the resident's death. The facility shall notify
14 the Department of the death of a facility's resident that does
15 not occur in the facility immediately upon learning of the
16 death. A facility shall promptly notify the coroner or medical
17 examiner of a resident's death in a manner and form to be
18 determined by the Department after consultation with the
19 coroner or medical examiner of the county in which the facility
20 is located. In addition to notice to the Department by
21 telephone, the Department shall require the facility to submit
22 written notification of the death of a resident within 72 hours
23 after the death, including a report of any medication errors or
24 other incidents that occurred within 30 days of the resident's
25 death. A facility's failure to comply with this Section shall

1 constitute a Type "B" violation.

2 (b) A facility shall immediately notify the resident's next
3 of kin, guardian, or resident representative of any unusual
4 incident, abuse, or neglect involving the resident. A facility
5 shall immediately notify the Department by telephone of any
6 unusual incident, abuse, or neglect required to be reported
7 pursuant to State law or administrative rule. In addition to
8 notice to the Department by telephone, the Department shall
9 require the facility to submit written notification of any
10 unusual incident, abuse, or neglect within one day after the
11 unusual incident, abuse, or neglect occurring. A facility's
12 failure to comply with this Section shall constitute a Type "B"
13 violation. For purposes of this Section, "unusual incident"
14 means serious injury; unscheduled hospital visit for treatment
15 of serious injury; 9-1-1 calls for emergency services directly
16 relating to a resident threat; or stalking of staff or person
17 served that raises health or safety concerns.

18 Section 2-209. Number of residents. A facility shall admit
19 only that number of residents for which it is licensed.

20 Section 2-210. Policies and procedures. A facility shall
21 establish written policies and procedures to implement the
22 responsibilities and rights provided in this Article. The
23 policies shall include the procedure for the investigation and
24 resolution of resident complaints as set forth under Section

1 3-702. The policies and procedures shall be clear and
2 unambiguous and shall be available for inspection by any
3 person. A summary of the policies and procedures, printed in
4 not less than 12-point type, shall be distributed to each
5 resident and representative.

6 Section 2-211. Explanation of rights. Each resident and
7 resident's guardian or other person acting for the resident
8 shall be given a written explanation, prepared by the Office of
9 the State Long Term Care Ombudsman, of all the rights
10 enumerated in Part 1 of this Article and in Part 4 of Article
11 III. For residents of facilities participating in Title XVIII
12 or XIX of the Social Security Act, the explanation shall
13 include an explanation of residents' rights enumerated in that
14 Act. The explanation shall be given at the time of admission to
15 a facility or as soon thereafter as the condition of the
16 resident permits, but in no event later than 48 hours after
17 admission, and again at least annually thereafter. At the time
18 of the implementation of this Act each resident shall be given
19 a written summary of all the rights enumerated in Part 1 of
20 this Article.

21 If a resident is unable to read such written explanation,
22 it shall be read to the resident in a language the resident
23 understands. In the case of a minor or a person having a
24 guardian or other person acting for him or her, both the
25 resident and the parent, guardian or other person acting for

1 the resident shall be fully informed of these rights.

2 Section 2-212. Staff familiarity with rights and
3 responsibilities. The facility shall ensure that its staff is
4 familiar with and observes the rights and responsibilities
5 enumerated in this Article.

6 Section 2-213. Vaccinations.

7 (a) A facility shall annually administer or arrange for
8 administration of a vaccination against influenza to each
9 resident, in accordance with the recommendations of the
10 Advisory Committee on Immunization Practices of the Centers for
11 Disease Control and Prevention that are most recent to the time
12 of vaccination, unless the vaccination is medically
13 contraindicated or the resident has refused the vaccine.
14 Influenza vaccinations for all residents age 65 and over shall
15 be completed by November 30 of each year or as soon as
16 practicable if vaccine supplies are not available before
17 November 1. Residents admitted after November 30, during the
18 flu season, and until February 1 shall, as medically
19 appropriate, receive an influenza vaccination prior to or upon
20 admission or as soon as practicable if vaccine supplies are not
21 available at the time of the admission, unless the vaccine is
22 medically contraindicated or the resident has refused the
23 vaccine. In the event that the Advisory Committee on
24 Immunization Practices of the Centers for Disease Control and

1 Prevention determines that dates of administration other than
2 those stated in this Act are optimal to protect the health of
3 residents, the Department is authorized to develop rules to
4 mandate vaccinations at those times rather than the times
5 stated in this Act. A facility shall document in the resident's
6 medical record that an annual vaccination against influenza was
7 administered, arranged, refused or medically contraindicated.

8 (b) A facility shall administer or arrange for
9 administration of a pneumococcal vaccination to each resident,
10 in accordance with the recommendations of the Advisory
11 Committee on Immunization Practices of the Centers for Disease
12 Control and Prevention, who has not received this immunization
13 prior to or upon admission to the facility, unless the resident
14 refuses the offer for vaccination or the vaccination is
15 medically contraindicated. A facility shall document in each
16 resident's medical record that a vaccination against
17 pneumococcal pneumonia was offered and administered, arranged,
18 refused, or medically contraindicated.

19 Section 2-214. Consumer Choice Information Reports.

20 (a) Every facility shall complete a Consumer Choice
21 Information Report and shall file it with the Office of State
22 Long Term Care Ombudsman electronically as prescribed by the
23 Office. The Report shall be filed annually and upon request of
24 the Office of State Long Term Care Ombudsman. The Consumer
25 Choice Information Report must be completed by the facility in

1 full.

2 (b) A violation of any of the provisions of this Section
3 constitutes an unlawful practice under the Consumer Fraud and
4 Deceptive Business Practices Act. All remedies, penalties, and
5 authority granted to the Attorney General by the Consumer Fraud
6 and Deceptive Business Practices Act shall be available to him
7 or her for the enforcement of this Section.

8 (c) The Department of Public Health shall include
9 verification of the submission of a facility's current Consumer
10 Choice Information Report when conducting an inspection
11 pursuant to Section 3-212.

12 Section 2-216. Notification of identified offenders. If
13 identified offenders are residents of the licensed facility,
14 the licensed facility shall notify every resident or resident's
15 guardian in writing that such offenders are residents of the
16 licensed facility. The licensed facility shall also provide
17 notice to its employees and to visitors to the facility that
18 identified offenders are residents.

19 Section 2-217. Notification of violations. When the
20 Department issues any notice pursuant to Section 3-119,
21 3-119.1, 3-301, 3-303, 3-307, or 3-702 of this Act or a notice
22 of federal Medicaid certification deficiencies, the facility
23 shall provide notification of the violations and deficiencies
24 within 10 days after receiving a notice described within this

1 Section to every resident and the resident's representative or
2 guardian identified or referred to anywhere within the
3 Department notice or the CMS 2567 as having received care or
4 services that violated State or federal standards. The
5 notification shall include a Department-prescribed
6 notification letter as determined by rule and a copy of the
7 notice and CMS 2567, if any, issued by the Department. A
8 facility's failure to provide notification pursuant to this
9 Section to a resident and the resident's representative or
10 guardian, if any, shall constitute a Type "B" violation.

11 Section 2-218. Minimum staffing. Facility staffing shall
12 be based on all the needs of the residents and comply with
13 Department rules as set forth under Section 3-202 of this Act.
14 Facilities shall provide each resident, regardless of age, no
15 less than 4.0 hours of nursing and personal care time each day.
16 The Department shall establish by rule the amount of registered
17 or other licensed nurse and professional care time from the
18 total 4.0 nursing and personal care time that shall be provided
19 each day. A facility's failure to comply with this Section
20 shall constitute a Type "B" violation.

21 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES,
22 AND REMEDIES

23 PART 1. LICENSING

1 Section 3-101. Licensure system. The Department shall
2 establish a comprehensive system of licensure for facilities in
3 accordance with this Act for the purposes of:

4 (1) Protecting the health, welfare, and safety of
5 residents; and

6 (2) Assuring the accountability for reimbursed care
7 provided in certified facilities participating in a
8 federal or State health program.

9 Section 3-102. Necessity of license. No person may
10 establish, operate, maintain, offer or advertise a facility
11 within this State unless and until he or she obtains a valid
12 license therefore as hereinafter provided, which license
13 remains unsuspended, unrevoked and unexpired. No public
14 official or employee may place any person in, or recommend that
15 any person be placed in, or directly or indirectly cause any
16 person to be placed in any facility which is being operated
17 without a valid license.

18 Section 3-102.1. Denial of Department access to facility.
19 If the Department is denied access to a facility or any other
20 place which it reasonably believes is required to be licensed
21 as a facility under this Act, it shall request intervention of
22 local, county or State law enforcement agencies to seek an
23 appropriate court order or warrant to examine or interview the

1 residents of such facility. Any person or entity preventing the
2 Department from carrying out its duties under this Section
3 shall be guilty of a violation of this Act and shall be subject
4 to such penalties related thereto.

5 Section 3-103. Application for license; financial
6 statement. The procedure for obtaining a valid license shall be
7 as follows:

8 (1) Application to operate a facility shall be made to
9 the Department on forms furnished by the Department.

10 (2) All license applications shall be accompanied with
11 an application fee. The fee for an annual license shall be
12 \$995. Facilities that pay a fee or assessment pursuant to
13 Article V-C of the Illinois Public Aid Code shall be exempt
14 from the license fee imposed under this item (2). The fee
15 for a 2-year license shall be double the fee for the annual
16 license set forth in the preceding sentence. The fees
17 collected shall be deposited with the State Treasurer into
18 the Long Term Care Monitor/Receiver Fund, which has been
19 created as a special fund in the State treasury. This
20 special fund is to be used by the Department for expenses
21 related to the appointment of monitors and receivers as
22 contained in Sections 3-501 through 3-517. At the end of
23 each fiscal year, any funds in excess of \$1,000,000 held in
24 the Long Term Care Monitor/Receiver Fund shall be deposited
25 in the State's General Revenue Fund. The application shall

1 be under oath and the submission of false or misleading
2 information shall be a Class A misdemeanor. The application
3 shall contain the following information:

4 (a) The name and address of the applicant if an
5 individual, and if a firm, partnership, or
6 association, of every member thereof, and in the case
7 of a corporation, the name and address thereof and of
8 its officers and its registered agent, and in the case
9 of a unit of local government, the name and address of
10 its chief executive officer;

11 (b) The name and location of the facility for which
12 a license is sought;

13 (c) The name of the person or persons under whose
14 management or supervision the facility will be
15 conducted;

16 (d) The number and type of residents for which
17 maintenance, personal care, or nursing is to be
18 provided; and

19 (e) Such information relating to the number,
20 experience, and training of the employees of the
21 facility, any management agreements for the operation
22 of the facility, and of the moral character of the
23 applicant and employees as the Department may deem
24 necessary.

25 (3) Each initial application shall be accompanied by a
26 financial statement setting forth the financial condition

1 of the applicant and by a statement from the unit of local
2 government having zoning jurisdiction over the facility's
3 location stating that the location of the facility is not
4 in violation of a zoning ordinance. An initial application
5 for a new facility shall be accompanied by a permit as
6 required by the Illinois Health Facilities Planning Act.
7 After the application is approved, the applicant shall
8 advise the Department every 6 months of any changes in the
9 information originally provided in the application.

10 (4) Other information necessary to determine the
11 identity and qualifications of an applicant to operate a
12 facility in accordance with this Act shall be included in
13 the application as required by the Department in
14 regulations.

15 Section 3-104. Licensing and regulation by municipality.
16 Any city, village or incorporated town may by ordinance provide
17 for the licensing and regulation of a facility or any
18 classification of such facility, as defined herein, within such
19 municipality, provided that the ordinance requires compliance
20 with at least the minimum requirements established by the
21 Department under this Act. The licensing and enforcement
22 provisions of the municipality shall fully comply with this
23 Act, and the municipality shall make available information as
24 required by this Act. Such compliance shall be determined by
25 the Department subject to review as provided in Section 3-703.

1 Section 3-703 shall also be applicable to the judicial review
2 of final administrative decisions of the municipality under
3 this Act.

4 Section 3-105. Reports by municipality. Any city, village
5 or incorporated town which has or may have ordinances requiring
6 the licensing and regulation of facilities with at least the
7 minimum standards established by the Department under this Act,
8 shall make such periodic reports to the Department as the
9 Department deems necessary. This report shall include a list of
10 those facilities licensed by such municipality, the number of
11 beds of each facility and the date the license of each facility
12 is effective.

13 Section 3-106. Issuance of license to holder of municipal
14 license.

15 (a) Upon receipt of notice and proof from an applicant or
16 licensee that he has received a license or renewal thereof from
17 a city, village or incorporated town, accompanied by the
18 required license or renewal fees, the Department shall issue a
19 license or renewal license to such person. The Department shall
20 not issue a license hereunder to any person who has failed to
21 qualify for a municipal license. If the issuance of a license
22 by the Department antedates regulatory action by a
23 municipality, the municipality shall issue a local license
24 unless the standards and requirements under its ordinance or

1 resolution are greater than those prescribed under this Act.

2 (b) In the event that the standards and requirements under
3 the ordinance or resolution of the municipality are greater
4 than those prescribed under this Act, the license issued by the
5 Department shall remain in effect pending reasonable
6 opportunity provided by the municipality, which shall be not
7 less than 60 days, for the licensee to comply with the local
8 requirements. Upon notice by the municipality, or upon the
9 Department's own determination that the licensee has failed to
10 qualify for a local license, the Department shall revoke such
11 license.

12 Section 3-107. Inspection; fees. The Department and the
13 city, village or incorporated town shall have the right at any
14 time to visit and inspect the premises and personnel of any
15 facility for the purpose of determining whether the applicant
16 or licensee is in compliance with this Act or with the local
17 ordinances which govern the regulation of the facility. The
18 Department may survey any former facility which once held a
19 license to ensure that the facility is not again operating
20 without a license. Municipalities may charge a reasonable
21 license or renewal fee for the regulation of facilities, which
22 fees shall be in addition to the fees paid to the Department.

23 Section 3-107.1. Access by law enforcement officials and
24 agencies. Notwithstanding any other provision of this Act, the

1 Attorney General, the State's Attorneys and various law
2 enforcement agencies of this State and its political
3 subdivisions shall have full and open access to any facility
4 pursuant to Article 108 of the Code of Criminal Procedure of
5 1963 in the exercise of their investigatory and prosecutorial
6 powers in the enforcement of the criminal laws of this State.
7 Furthermore, the Attorney General, the State's Attorneys and
8 law enforcement agencies of this State shall inform the
9 Department of any violations of this Act of which they have
10 knowledge. Disclosure of matters before a grand jury shall be
11 made in accordance with Section 112-6 of the Code of Criminal
12 Procedure of 1963.

13 Section 3-108. Cooperation with State agencies. The
14 Department shall coordinate the functions within State
15 government affecting facilities licensed under this Act and
16 shall cooperate with other State agencies which establish
17 standards or requirements for facilities to assure necessary,
18 equitable, and consistent State supervision of licensees
19 without unnecessary duplication of survey, evaluation, and
20 consultation services or complaint investigations. The
21 Department shall cooperate with the Department of Human
22 Services in regard to facilities containing more than 20% of
23 residents for whom the Department of Human Services has
24 mandated follow up responsibilities under the Mental Health and
25 Developmental Disabilities Administrative Act. The Department

1 shall cooperate with the Department of Healthcare and Family
2 Services in regard to facilities where recipients of public aid
3 are residents. The Department shall immediately refer to the
4 Department of Financial and Professional Regulation (as
5 successor to the Department of Professional Regulation) for
6 investigation any credible evidence of which it has knowledge
7 that an individual licensed by that Department has violated
8 this Act or any rule issued under this Act. The Department
9 shall enter into agreements with other State Departments,
10 agencies or commissions to effectuate the purpose of this
11 Section.

12 Section 3-109. Issuance of license based on Director's
13 findings. Upon receipt and review of an application for a
14 license made under this Article and inspection of the applicant
15 facility under this Article, the Director shall issue a license
16 if he or she finds:

17 (1) That the individual applicant, or the corporation,
18 partnership or other entity if the applicant is not an
19 individual, is a person responsible and suitable to operate
20 or to direct or participate in the operation of a facility
21 by virtue of financial capacity, appropriate business or
22 professional experience, a record of compliance with
23 lawful orders of the Department and lack of revocation of a
24 license during the previous 5 years and is not the owner of
25 a facility designated pursuant to Section 3-304.2 as a

1 distressed facility;

2 (2) That the facility is under the supervision of an
3 administrator who is licensed, if required, under the
4 Nursing Home Administrators Licensing and Disciplinary
5 Act, as now or hereafter amended; and

6 (3) That the facility is in substantial compliance with
7 this Act, and such other requirements for a license as the
8 Department by rule may establish under this Act.

9 Section 3-110. Contents and period of license.

10 (a) Any license granted by the Director shall state the
11 maximum bed capacity for which it is granted, the date the
12 license was issued, and the expiration date. Except as provided
13 in subsection (b), such licenses shall normally be issued for a
14 period of one year. However, the Director may issue licenses or
15 renewals for periods of not less than 6 months nor more than 18
16 months for facilities with annual licenses and not less than 18
17 months nor more than 30 months for facilities with 2-year
18 licenses in order to distribute the expiration dates of such
19 licenses throughout the calendar year, and fees for such
20 licenses shall be prorated on the basis of the portion of a
21 year for which they are issued. Each license shall be issued
22 only for the premises and persons named in the application and
23 shall not be transferable or assignable.

24 The Department shall require the licensee to comply with
25 the requirements of a court order issued under Section 3-515,

1 as a condition of licensing.

2 (b) A license for a period of 2 years shall be issued to a
3 facility if the facility:

4 (1) has not received a Type "AA" violation within the
5 last 12 months;

6 (1.5) has not received a Type "A" violation within the
7 last 24 months;

8 (2) has not received a Type "B" violation within the
9 last 24 months;

10 (3) has not had an inspection, survey, or evaluation
11 that resulted in the issuance of 10 or more administrative
12 warnings in the last 24 months;

13 (4) has not had an inspection, survey, or evaluation
14 that resulted in an administrative warning issued for a
15 violation of Sections 3-401 through 3-413 in the last 24
16 months;

17 (5) has not been issued an order to reimburse a
18 resident for a violation of Article II under subsection (6)
19 of Section 3-305 in the last 24 months; and

20 (6) has not been subject to sanctions or
21 decertification for violations in relation to patient care
22 of a facility under Titles XVIII and XIX of the federal
23 Social Security Act within the last 24 months.

24 If a facility with a 2-year license fails to meet the
25 conditions in items (1) through (6) of this subsection, in
26 addition to any other sanctions that may be applied by the

1 Department under this Act, the facility's 2-year license shall
2 be replaced by a one year license until such time as the
3 facility again meets the conditions in items (1) through (6) of
4 this subsection.

5 Section 3-111. Issuance or renewal of license after notice
6 of violation. The issuance or renewal of a license after notice
7 of a violation has been sent shall not constitute a waiver by
8 the Department of its power to rely on the violation as the
9 basis for subsequent license revocation or other enforcement
10 action under this Act arising out of the notice of violation.

11 Section 3-112. Transfer of ownership; license.

12 (a) Whenever ownership of a facility is transferred from
13 the person named in the license to any other person, the
14 transferee must obtain a new probationary license. The
15 transferee shall notify the Department of the transfer and
16 apply for a new license at least 30 days prior to final
17 transfer. The Department may not approve the transfer of
18 ownership to an owner of a facility designated pursuant to
19 Section 3-304.2 of this Act as a distressed facility.

20 (b) The transferor shall notify the Department at least 30
21 days prior to final transfer. The transferor shall remain
22 responsible for the operation of the facility until such time
23 as a license is issued to the transferee.

1 Section 3-113. Transferee; conditional license. The
2 license granted to the transferee shall be subject to the plan
3 of correction submitted by the previous owner and approved by
4 the Department and any conditions contained in a conditional
5 license issued to the previous owner. If there are outstanding
6 violations and no approved plan of correction has been
7 implemented, the Department may issue a conditional license and
8 plan of correction as provided in Sections 3-311 through 3-317.

9 Section 3-114. Transferor liable for penalties. The
10 transferor shall remain liable for all penalties assessed
11 against the facility which are imposed for violations occurring
12 prior to transfer of ownership.

13 Section 3-115. License renewal application. At least 120
14 days but not more than 150 days prior to license expiration,
15 the licensee shall submit an application for renewal of the
16 license in such form and containing such information as the
17 Department requires. If the application is approved, the
18 license shall be renewed in accordance with Section 3-110. The
19 renewal application for a facility shall not be approved unless
20 the applicant has provided to the Department an accurate
21 disclosure document in accordance with the Alzheimer's Disease
22 and Related Dementias Special Care Disclosure Act. If
23 application for renewal is not timely filed, the Department
24 shall so inform the licensee.

1 Section 3-116. Probationary license. If the applicant has
2 not been previously licensed or if the facility is not in
3 operation at the time application is made, the Department shall
4 issue only a probationary license. A probationary license shall
5 be valid for 120 days unless sooner suspended or revoked under
6 Section 3-119. Within 30 days prior to the termination of a
7 probationary license, the Department shall fully and
8 completely inspect the facility and, if the facility meets the
9 applicable requirements for licensure, shall issue a license
10 under Section 3-109. If the Department finds that the facility
11 does not meet the requirements for licensure but has made
12 substantial progress toward meeting those requirements, the
13 license may be renewed once for a period not to exceed 120 days
14 from the expiration date of the initial probationary license.

15 Section 3-117. Denial of license; grounds. An application
16 for a license may be denied for any of the following reasons:

17 (1) Failure to meet any of the minimum standards set
18 forth by this Act or by rules and regulations promulgated
19 by the Department under this Act.

20 (2) Conviction of the applicant, or if the applicant is
21 a firm, partnership or association, of any of its members,
22 or if a corporation, the conviction of the corporation or
23 any of its officers or stockholders, or of the person
24 designated to manage or supervise the facility, of a

1 felony, or of 2 or more misdemeanors involving moral
2 turpitude, during the previous 5 years as shown by a
3 certified copy of the record of the court of conviction.

4 (3) Personnel insufficient in number or unqualified by
5 training or experience to properly care for the proposed
6 number and type of residents.

7 (4) Insufficient financial or other resources to
8 operate and conduct the facility in accordance with
9 standards promulgated by the Department under this Act.

10 (5) Revocation of a facility license during the
11 previous 5 years, if such prior license was issued to the
12 individual applicant, a controlling owner or controlling
13 combination of owners of the applicant; or any affiliate of
14 the individual applicant or controlling owner of the
15 applicant and such individual applicant, controlling owner
16 of the applicant or affiliate of the applicant was a
17 controlling owner of the prior license; provided, however,
18 that the denial of an application for a license pursuant to
19 this subsection must be supported by evidence that such
20 prior revocation renders the applicant unqualified or
21 incapable of meeting or maintaining a facility in
22 accordance with the standards and rules promulgated by the
23 Department under this Act.

24 (6) That the facility is not under the direct
25 supervision of a full time administrator, as defined by
26 regulation, who is licensed, if required, under the Nursing

1 Home Administrators Licensing and Disciplinary Act.

2 (7) That the facility is in receivership and the
3 proposed licensee has not submitted a specific detailed
4 plan to bring the facility into compliance with the
5 requirements of this Act and with federal certification
6 requirements, if the facility is certified, and to keep the
7 facility in such compliance.

8 (8) The applicant is the owner of a facility designated
9 pursuant to Section 3-304.2 of this Act as a distressed
10 facility.

11 Section 3-118. Notice of denial; request for hearing.
12 Immediately upon the denial of any application or reapplication
13 for a license under this Article, the Department shall notify
14 the applicant in writing. Notice of denial shall include a
15 clear and concise statement of the violations of Section 3-117
16 on which denial is based and notice of the opportunity for a
17 hearing under Section 3-703. If the applicant desires to
18 contest the denial of a license, it shall provide written
19 notice to the Department of a request for a hearing within 10
20 days after receipt of the notice of denial. The Department
21 shall commence the hearing under Section 3-703.

22 Section 3-119. Suspension, revocation, or refusal to renew
23 license.

24 (a) The Department, after notice to the applicant or

1 licensee, may suspend, revoke or refuse to renew a license in
2 any case in which the Department finds any of the following:

3 (1) There has been a substantial failure to comply with
4 this Act or the rules and regulations promulgated by the
5 Department under this Act. A substantial failure by a
6 facility shall include, but not be limited to, any of the
7 following:

8 (A) termination of Medicare or Medicaid
9 certification by the Centers for Medicare and Medicaid
10 Services; or

11 (B) a failure by the facility to pay any fine
12 assessed under this Act after the Department has sent
13 to the facility and licensee at least 2 notices of
14 assessment that include a schedule of payments as
15 determined by the Department, taking into account
16 extenuating circumstances and financial hardships of
17 the facility.

18 (2) Conviction of the licensee, or of the person
19 designated to manage or supervise the facility, of a
20 felony, or of 2 or more misdemeanors involving moral
21 turpitude, during the previous 5 years as shown by a
22 certified copy of the record of the court of conviction.

23 (3) Personnel is insufficient in number or unqualified
24 by training or experience to properly care for the number
25 and type of residents served by the facility.

26 (4) Financial or other resources are insufficient to

1 conduct and operate the facility in accordance with
2 standards promulgated by the Department under this Act.

3 (5) The facility is not under the direct supervision of
4 a full time administrator, as defined by regulation, who is
5 licensed, if required, under the Nursing Home
6 Administrators Licensing and Disciplinary Act.

7 (6) The facility has committed 2 Type "AA" violations
8 within a 2-year period.

9 (7) The facility has committed a Type "AA" violation
10 while the facility is listed as a "distressed facility".

11 (b) Notice under this Section shall include a clear and
12 concise statement of the violations on which the nonrenewal or
13 revocation is based, the statute or rule violated and notice of
14 the opportunity for a hearing under Section 3-703.

15 (c) If a facility desires to contest the nonrenewal or
16 revocation of a license, the facility shall, within 10 days
17 after receipt of notice under subsection (b) of this Section,
18 notify the Department in writing of its request for a hearing
19 under Section 3-703. Upon receipt of the request the Department
20 shall send notice to the facility and hold a hearing as
21 provided under Section 3-703.

22 (d) The effective date of nonrenewal or revocation of a
23 license by the Department shall be any of the following:

24 (1) Until otherwise ordered by the circuit court,
25 revocation is effective on the date set by the Department
26 in the notice of revocation, or upon final action after

1 hearing under Section 3-703, whichever is later.

2 (2) Until otherwise ordered by the circuit court,
3 nonrenewal is effective on the date of expiration of any
4 existing license, or upon final action after hearing under
5 Section 3-703, whichever is later; however, a license shall
6 not be deemed to have expired if the Department fails to
7 timely respond to a timely request for renewal under this
8 Act or for a hearing to contest nonrenewal under paragraph
9 (c).

10 (3) The Department may extend the effective date of
11 license revocation or expiration in any case in order to
12 permit orderly removal and relocation of residents.

13 The Department may refuse to issue or may suspend the
14 license of any person who fails to file a return, or to pay the
15 tax, penalty or interest shown in a filed return, or to pay any
16 final assessment of tax, penalty or interest, as required by
17 any tax Act administered by the Illinois Department of Revenue,
18 until such time as the requirements of any such tax Act are
19 satisfied.

20 Section 3-119.1. Ban on new admissions.

21 (a) Upon a finding by the Department that there has been a
22 substantial failure to comply with this Act or the rules and
23 regulations promulgated by the Department under this Act,
24 including, without limitation, the circumstances set forth in
25 subsection (a) of Section 3-119 of this Act, or if the

1 Department otherwise finds that it would be in the public
2 interest or the interest of the health, safety, and welfare of
3 facility residents, the Department may impose a ban on new
4 admissions to any facility licensed under this Act. The ban
5 shall continue until such time as the Department determines
6 that the circumstances giving rise to the ban no longer exist.

7 (b) The Department shall provide notice to the facility and
8 licensee of any ban imposed pursuant to subsection (a) of this
9 Section. The notice shall provide a clear and concise statement
10 of the circumstances on which the ban on new admissions is
11 based and notice of the opportunity for a hearing. If the
12 Department finds that the public interest or the health,
13 safety, or welfare of facility residents imperatively requires
14 immediate action and if the Department incorporates a finding
15 to that effect in its notice, then the ban on new admissions
16 may be ordered pending any hearing requested by the facility.
17 Those proceedings shall be promptly instituted and determined.
18 The Department shall promulgate rules defining the
19 circumstances under which a ban on new admissions may be
20 imposed.

21 PART 2. GENERAL PROVISIONS

22 Section 3-201. Medical treatment; no prescription by
23 Department. The Department shall not prescribe the course of
24 medical treatment provided to an individual resident by the

1 resident's physician in a facility.

2 Section 3-202. Standards for facilities. The Department
3 shall prescribe minimum standards for facilities. These
4 standards shall regulate:

5 (1) Location and construction of the facility,
6 including plumbing, heating, lighting, ventilation, and
7 other physical conditions which shall ensure the health,
8 safety, and comfort of residents and their protection from
9 fire hazard;

10 (2) To the extent this Act has not established minimum
11 staffing requirements within this Act, the numbers and
12 qualifications of all personnel, including management and
13 nursing personnel, having responsibility for any part of
14 the care given to residents; specifically, the Department
15 shall establish staffing ratios for facilities which shall
16 specify the number of staff hours per resident of care that
17 are needed for professional nursing care for various types
18 of facilities or areas within facilities;

19 (3) All sanitary conditions within the facility and its
20 surroundings, including water supply, sewage disposal,
21 food handling, and general hygiene, which shall ensure the
22 health and comfort of residents;

23 (4) Diet related to the needs of each resident based on
24 good nutritional practice and on recommendations which may
25 be made by the physicians attending the resident;

1 (5) Equipment essential to the health and welfare of
2 the residents;

3 (6) A program of habilitation and rehabilitation for
4 those residents who would benefit from such programs;

5 (7) A program for adequate maintenance of physical
6 plant and equipment;

7 (8) Adequate accommodations, staff and services for
8 the number and types of residents for whom the facility is
9 licensed to care, including standards for temperature and
10 relative humidity within comfort zones determined by the
11 Department based upon a combination of air temperature,
12 relative humidity and air movement. Such standards shall
13 also require facility plans that provide for health and
14 comfort of residents at medical risk as determined by the
15 attending physician whenever the temperature and relative
16 humidity are outside such comfort zones established by the
17 Department. The standards must include a requirement that
18 areas of a facility used by residents of the facility be
19 air-conditioned and heated by means of operable
20 air-conditioning and heating equipment. The areas subject
21 to this air-conditioning and heating requirement include,
22 without limitation, bedrooms or common areas such as
23 sitting rooms, activity rooms, living rooms, community
24 rooms, and dining rooms;

25 (9) Development of evacuation and other appropriate
26 safety plans for use during weather, health, fire, physical

1 plant, environmental and national defense emergencies; and
2 (10) Maintenance of minimum financial or other
3 resources necessary to meet the standards established
4 under this Section, and to operate and conduct the facility
5 in accordance with this Act.

6 Section 3-202.1. Weather or hazard alert system. The
7 Department shall develop and implement a system of alerting and
8 educating facilities and their personnel as to the existence or
9 possibility of weather or other hazardous circumstances which
10 may endanger resident health or safety and designating any
11 precautions to prevent or minimize such danger. The Department
12 may assist any facility experiencing difficulty in dealing with
13 such emergencies. The Department may provide for announcement
14 to the public of the dangers posed to facility residents by
15 such existing or potential weather or hazardous circumstances.

16 Section 3-202.2a. Comprehensive resident care plan. A
17 facility, with the participation of the resident and the
18 resident's guardian or resident's representative, as
19 applicable, must develop and implement a comprehensive care
20 plan for each resident that includes measurable objectives and
21 timetables to meet the resident's medical, nursing, mental
22 health, psychosocial, and habilitation needs that are
23 identified in the resident's comprehensive assessment that
24 allows the resident to attain or maintain the highest

1 practicable level of independent functioning and provide for
2 discharge planning to the least restrictive setting based on
3 the resident's care needs. The assessment shall be developed
4 with the active participation of the resident and the
5 resident's guardian or resident's representative, as
6 applicable.

7 Section 3-202.3. Identified offenders as residents. No
8 later than 30 days after the effective date of this Act, the
9 Department shall file with the Illinois Secretary of State's
10 Office, pursuant to the Illinois Administrative Procedure Act,
11 emergency rules regarding the provision of services to
12 identified offenders. The emergency rules shall provide for, or
13 include, but not be limited to the following:

14 (1) A process for the identification of identified
15 offenders.

16 (2) A required risk assessment of identified
17 offenders.

18 (3) A requirement that a licensed facility be required,
19 within 10 days of the filing of the emergency rules, to
20 compare its residents against the Illinois Department of
21 Corrections and Illinois State Police registered sex
22 offender databases.

23 (4) A requirement that the licensed facility notify the
24 Department within 48 hours of determining that a resident
25 or residents of the licensed facility are listed on the

1 Illinois Department of Corrections or Illinois State
2 Police registered sex offender databases.

3 (5) The care planning of identified offenders, which
4 shall include, but not be limited to, a description of the
5 security measures necessary to protect facility residents
6 from the identified offender, including whether the
7 identified offender should be segregated from other
8 facility residents.

9 (6) For offenders serving terms of probation for felony
10 offenses, parole, or mandatory supervised release, the
11 facility shall acknowledge the terms of release as imposed
12 by the court or Illinois Prisoner Review Board.

13 (7) The discharge planning for identified offenders.

14 Section 3-202.4. Feasibility of segregating identified
15 offenders. The Department shall determine the feasibility of
16 requiring identified offenders that seek admission to a
17 licensed facility to be segregated from other residents.

18 Section 3-202.5. Facility plan review; fees.

19 (a) Before commencing construction of a new facility or
20 specified types of alteration or additions to an existing
21 facility involving major construction, as defined by rule by
22 the Department, with an estimated cost greater than \$100,000,
23 architectural drawings and specifications for the facility
24 shall be submitted to the Department for review and approval. A

1 facility may submit architectural drawings and specifications
2 for other construction projects for Department review
3 according to subsection (b) that shall not be subject to fees
4 under subsection (d). Review of drawings and specifications
5 shall be conducted by an employee of the Department meeting the
6 qualifications established by the Department of Central
7 Management Services class specifications for such an
8 individual's position or by a person contracting with the
9 Department who meets those class specifications. Final
10 approval of the drawings and specifications for compliance with
11 design and construction standards shall be obtained from the
12 Department before the alteration, addition, or new
13 construction is begun.

14 (b) The Department shall inform an applicant in writing
15 within 10 working days after receiving drawings and
16 specifications and the required fee, if any, from the applicant
17 whether the applicant's submission is complete or incomplete.
18 Failure to provide the applicant with this notice within 10
19 working days shall result in the submission being deemed
20 complete for purposes of initiating the 60 day review period
21 under this Section. If the submission is incomplete, the
22 Department shall inform the applicant of the deficiencies with
23 the submission in writing. If the submission is complete the
24 required fee, if any, has been paid, the Department shall
25 approve or disapprove drawings and specifications submitted to
26 the Department no later than 60 days following receipt by the

1 Department. The drawings and specifications shall be of
2 sufficient detail, as provided by Department rule, to enable
3 the Department to render a determination of compliance with
4 design and construction standards under this Act. If the
5 Department finds that the drawings are not of sufficient detail
6 for it to render a determination of compliance, the plans shall
7 be determined to be incomplete and shall not be considered for
8 purposes of initiating the 60 day review period. If a
9 submission of drawings and specifications is incomplete, the
10 applicant may submit additional information. The 60 day review
11 period shall not commence until the Department determines that
12 a submission of drawings and specifications is complete or the
13 submission is deemed complete. If the Department has not
14 approved or disapproved the drawings and specifications within
15 60 days, the construction, major alteration, or addition shall
16 be deemed approved. If the drawings and specifications are
17 disapproved, the Department shall state in writing, with
18 specificity, the reasons for the disapproval. The entity
19 submitting the drawings and specifications may submit
20 additional information in response to the written comments from
21 the Department or request a reconsideration of the disapproval.
22 A final decision of approval or disapproval shall be made
23 within 45 days of the receipt of the additional information or
24 reconsideration request. If denied, the Department shall state
25 the specific reasons for the denial.

26 (c) The Department shall provide written approval for

1 occupancy pursuant to subsection (g) and shall not issue a
2 violation to a facility as a result of a licensure or complaint
3 survey based upon the facility's physical structure if:

4 (1) the Department reviewed and approved or deemed
5 approved the drawings and specifications for compliance
6 with design and construction standards;

7 (2) the construction, major alteration, or addition
8 was built as submitted;

9 (3) the law or rules have not been amended since the
10 original approval; and

11 (4) the conditions at the facility indicate that there
12 is a reasonable degree of safety provided for the
13 residents.

14 (d) (Blank).

15 (e) All fees received by the Department under this Section
16 shall be deposited into the Health Facility Plan Review Fund, a
17 special fund created in the State Treasury. Moneys shall be
18 appropriated from that Fund to the Department only to pay the
19 costs of conducting reviews under this Section, under Section
20 3-202.5 of the Nursing Home Care Act, or under Section 3-202.5
21 of the ID/DD Community Care Act. None of the moneys in the
22 Health Facility Plan Review Fund shall be used to reduce the
23 amount of General Revenue Fund moneys appropriated to the
24 Department for facility plan reviews conducted pursuant to this
25 Section.

26 (f) (Blank).

1 (g) The Department shall conduct an on site inspection of
2 the completed project no later than 30 days after notification
3 from the applicant that the project has been completed and all
4 certifications required by the Department have been received
5 and accepted by the Department. The Department shall provide
6 written approval for occupancy to the applicant within 5
7 working days of the Department's final inspection, provided the
8 applicant has demonstrated substantial compliance as defined
9 by Department rule. Occupancy of new major construction is
10 prohibited until Department approval is received, unless the
11 Department has not acted within the time frames provided in
12 this subsection (g), in which case the construction shall be
13 deemed approved. Occupancy shall be authorized after any
14 required health inspection by the Department has been
15 conducted.

16 (h) The Department shall establish, by rule, a procedure to
17 conduct interim on site review of large or complex construction
18 projects.

19 (i) The Department shall establish, by rule, an expedited
20 process for emergency repairs or replacement of like equipment.

21 (j) Nothing in this Section shall be construed to apply to
22 maintenance, upkeep, or renovation that does not affect the
23 structural integrity of the building, does not add beds or
24 services over the number for which the facility is licensed,
25 and provides a reasonable degree of safety for the residents.

1 Section 3-203. Standards for persons with developmental
2 disability or emotional or behavioral disorder. In licensing
3 any facility for persons with a developmental disability or
4 persons suffering from emotional or behavioral disorders, the
5 Department shall consult with the Department of Human Services
6 in developing minimum standards for such persons.

7 Section 3-204. License classifications. In addition to the
8 authority to prescribe minimum standards, the Department may
9 adopt license classifications of facilities according to the
10 levels of service, and if license classification is adopted the
11 applicable minimum standards shall define the classification.
12 In adopting classification of the license of facilities, the
13 Department may give recognition to the classification of
14 services defined or prescribed by federal statute or federal
15 rule or regulation. More than one classification of the license
16 may be issued to the same facility when the prescribed minimum
17 standards and regulations are met.

18 Section 3-205. Municipalities; license classifications.
19 Where licensing responsibilities are performed by a city,
20 village or incorporated town, the municipality shall use the
21 same classifications as the Department; and a facility may not
22 be licensed for a different classification by the Department
23 than by the municipality.

1 Section 3-206. Curriculum for training nursing assistants
2 and aides. The Department shall prescribe a curriculum for
3 training nursing assistants, habilitation aides, and child
4 care aides.

5 (a) No person, except a volunteer who receives no
6 compensation from a facility and is not included for the
7 purpose of meeting any staffing requirements set forth by the
8 Department, shall act as a nursing assistant, habilitation
9 aide, or child care aide in a facility, nor shall any person,
10 under any other title, not licensed, certified, or registered
11 to render medical care by the Department of Financial and
12 Professional Regulation, assist with the personal, medical, or
13 nursing care of residents in a facility, unless such person
14 meets the following requirements:

15 (1) Be at least 16 years of age, of temperate habits
16 and good moral character, honest, reliable and
17 trustworthy.

18 (2) Be able to speak and understand the English
19 language or a language understood by a substantial
20 percentage of the facility's residents.

21 (3) Provide evidence of employment or occupation, if
22 any, and residence for 2 years prior to his or her present
23 employment.

24 (4) Have completed at least 8 years of grade school or
25 provide proof of equivalent knowledge.

26 (5) Begin a current course of training for nursing

1 assistants, habilitation aides, or child care aides,
2 approved by the Department, within 45 days of initial
3 employment in the capacity of a nursing assistant,
4 habilitation aide, or child care aide at any facility. Such
5 courses of training shall be successfully completed within
6 120 days of initial employment in the capacity of nursing
7 assistant, habilitation aide, or child care aide at a
8 facility. Nursing assistants, habilitation aides, and
9 child care aides who are enrolled in approved courses in
10 community colleges or other educational institutions on a
11 term, semester or trimester basis, shall be exempt from the
12 120-day completion time limit. The Department shall adopt
13 rules for such courses of training. These rules shall
14 include procedures for facilities to carry on an approved
15 course of training within the facility.

16 The Department may accept comparable training in lieu
17 of the 120-hour course for student nurses, foreign nurses,
18 military personnel, or employees of the Department of Human
19 Services.

20 The facility shall develop and implement procedures,
21 which shall be approved by the Department, for an ongoing
22 review process, which shall take place within the facility,
23 for nursing assistants, habilitation aides, and child care
24 aides.

25 At the time of each regularly scheduled licensure
26 survey, or at the time of a complaint investigation, the

1 Department may require any nursing assistant, habilitation
2 aide, or child care aide to demonstrate, either through
3 written examination or action, or both, sufficient
4 knowledge in all areas of required training. If such
5 knowledge is inadequate the Department shall require the
6 nursing assistant, habilitation aide, or child care aide to
7 complete inservice training and review in the facility
8 until the nursing assistant, habilitation aide, or child
9 care aide demonstrates to the Department, either through
10 written examination or action, or both, sufficient
11 knowledge in all areas of required training; and

12 (6) Be familiar with and have general skills related to
13 resident care.

14 (a-0.5) An educational entity, other than a secondary
15 school, conducting a nursing assistant, habilitation aide, or
16 child care aide training program shall initiate a criminal
17 history record check in accordance with the Health Care Worker
18 Background Check Act prior to entry of an individual into the
19 training program. A secondary school may initiate a criminal
20 history record check in accordance with the Health Care Worker
21 Background Check Act at any time during or after a training
22 program.

23 (a-1) Nursing assistants, habilitation aides, or child
24 care aides seeking to be included on the registry maintained
25 under Section 3-206.01 of this Act must authorize the
26 Department of Public Health or its designee to request a

1 criminal history record check in accordance with the Health
2 Care Worker Background Check Act and submit all necessary
3 information. An individual may not newly be included on the
4 registry unless a criminal history record check has been
5 conducted with respect to the individual.

6 (b) Persons subject to this Section shall perform their
7 duties under the supervision of a licensed nurse or other
8 appropriately trained, licensed, or certified personnel.

9 (c) It is unlawful for any facility to employ any person in
10 the capacity of nursing assistant, habilitation aide, or child
11 care aide, or under any other title, not licensed by the State
12 of Illinois to assist in the personal, medical, or nursing care
13 of residents in such facility unless such person has complied
14 with this Section.

15 (d) Proof of compliance by each employee with the
16 requirements set out in this Section shall be maintained for
17 each such employee by each facility in the individual personnel
18 folder of the employee. Proof of training shall be obtained
19 only from the health care worker registry.

20 (e) Each facility shall obtain access to the health care
21 worker registry's web application, maintain the employment and
22 demographic information relating to each employee, and verify
23 by the category and type of employment that each employee
24 subject to this Section meets all the requirements of this
25 Section.

26 (f) Any facility that is operated under Section 3-803 shall

1 be exempt from the requirements of this Section.

2 (g) Each skilled nursing and intermediate care facility
3 that admits persons who are diagnosed as having Alzheimer's
4 disease or related dementias shall require all nursing
5 assistants, habilitation aides, or child care aides, who did
6 not receive 12 hours of training in the care and treatment of
7 such residents during the training required under paragraph (5)
8 of subsection (a), to obtain 12 hours of in house training in
9 the care and treatment of such residents. If the facility does
10 not provide the training in house, the training shall be
11 obtained from other facilities, community colleges or other
12 educational institutions that have a recognized course for such
13 training. The Department shall, by rule, establish a recognized
14 course for such training.

15 The Department's rules shall provide that such training may
16 be conducted in house at each facility subject to the
17 requirements of this subsection, in which case such training
18 shall be monitored by the Department. The Department's rules
19 shall also provide for circumstances and procedures whereby any
20 person who has received training that meets the requirements of
21 this subsection shall not be required to undergo additional
22 training if he or she is transferred to or obtains employment
23 at a different facility or a facility other than those licensed
24 under this Act but remains continuously employed as a nursing
25 assistant, habilitation aide, or child care aide. Individuals
26 who have performed no nursing, nursing-related services, or

1 habilitation services for a period of 24 consecutive months
2 shall be listed as inactive and as such do not meet the
3 requirements of this Section. Licensed sheltered care
4 facilities shall be exempt from the requirements of this
5 Section.

6 Section 3-206.01. Health care worker registry.

7 (a) The Department shall establish and maintain a registry
8 of all individuals who (i) have satisfactorily completed the
9 training required by Section 3-206, (ii) have begun a current
10 course of training as set forth in Section 3-206, or (iii) are
11 otherwise acting as a nursing assistant, habilitation aide,
12 home health aide, or child care aide. The registry shall
13 include the individual's name, his or her current address,
14 Social Security number, and whether the individual has any of
15 the disqualifying convictions listed in Section 25 of the
16 Health Care Worker Background Check Act from the date and
17 location of the training course completed by the individual,
18 and the date of the individual's last criminal records check.
19 Any individual placed on the registry is required to inform the
20 Department of any change of address within 30 days. A facility
21 shall not employ an individual as a nursing assistant,
22 habilitation aide, home health aide, or child care aide, or
23 newly hired as an individual who may have access to a resident,
24 a resident's living quarters, or a resident's personal,
25 financial, or medical records, unless the facility has inquired

1 of the Department's health care worker registry as to
2 information in the registry concerning the individual. The
3 facility shall not employ an individual as a nursing assistant,
4 habilitation aide, or child care aide if that individual is not
5 on the registry unless the individual is enrolled in a training
6 program under paragraph (5) of subsection (a) of Section 3-206
7 of this Act.

8 If the Department finds that a nursing assistant,
9 habilitation aide, home health aide, child care aide, or an
10 unlicensed individual, has abused or neglected a resident or an
11 individual under his or her care, or misappropriated property
12 of a resident or an individual under his or her care in a
13 facility, the Department shall notify the individual of this
14 finding by certified mail sent to the address contained in the
15 registry. The notice shall give the individual an opportunity
16 to contest the finding in a hearing before the Department or to
17 submit a written response to the findings in lieu of requesting
18 a hearing. If, after a hearing or if the individual does not
19 request a hearing, the Department finds that the individual
20 abused a resident, neglected a resident, or misappropriated
21 resident property in a facility, the finding shall be included
22 as part of the registry as well as a clear and accurate summary
23 statement from the individual, if he or she chooses to make
24 such a statement. The Department shall make the following
25 information in the registry available to the public: an
26 individual's full name; the date an individual successfully

1 completed a nurse aide training or competency evaluation; and
2 whether the Department has made a finding that an individual
3 has been guilty of abuse or neglect of a resident or
4 misappropriation of resident's property. In the case of
5 inquiries to the registry concerning an individual listed in
6 the registry, any information disclosed concerning such a
7 finding shall also include disclosure of the individual's
8 statement in the registry relating to the finding or a clear
9 and accurate summary of the statement.

10 (b) The Department shall add to the health care worker
11 registry records of findings as reported by the Inspector
12 General or remove from the health care worker registry records
13 of findings as reported by the Department of Human Services,
14 under subsection (s) of Section 1-17 of the Department of Human
15 Services Act.

16 Section 3-206.02. Designation on registry for offense.

17 (a) The Department, after notice to the nursing assistant,
18 habilitation aide, home health aide, or child care aide, may
19 designate that the Department has found any of the following:

20 (1) The nursing assistant, habilitation aide, home
21 health aide, or child care aide has abused a resident.

22 (2) The nursing assistant, habilitation aide, home
23 health aide, or child care aide has neglected a resident.

24 (3) The nursing assistant, habilitation aide, home
25 health aide, or child care aide has misappropriated

1 resident property.

2 (4) The nursing assistant, habilitation aide, home
3 health aide, or child care aide has been convicted of (i) a
4 felony, (ii) a misdemeanor, an essential element of which
5 is dishonesty, or (iii) any crime that is directly related
6 to the duties of a nursing assistant, habilitation aide, or
7 child care aide.

8 (b) Notice under this Section shall include a clear and
9 concise statement of the grounds denoting abuse, neglect, or
10 theft and notice of the opportunity for a hearing to contest
11 the designation.

12 (c) The Department may designate any nursing assistant,
13 habilitation aide, home health aide, or child care aide on the
14 registry who fails (i) to file a return, (ii) to pay the tax,
15 penalty or interest shown in a filed return, or (iii) to pay
16 any final assessment of tax, penalty or interest, as required
17 by any tax Act administered by the Illinois Department of
18 Revenue, until the time the requirements of the tax Act are
19 satisfied.

20 (c-1) The Department shall document criminal background
21 check results pursuant to the requirements of the Health Care
22 Worker Background Check Act.

23 (d) At any time after the designation on the registry
24 pursuant to subsection (a), (b), or (c) of this Section, a
25 nursing assistant, habilitation aide, home health aide, or
26 child care aide may petition the Department for removal of a

1 designation of neglect on the registry. The Department may
2 remove the designation of neglect of the nursing assistant,
3 habilitation aide, home health aide, or child care aide on the
4 registry unless, after an investigation and a hearing, the
5 Department determines that removal of designation is not in the
6 public interest.

7 Section 3-206.03. Resident attendants.

8 (a) As used in this Section, "resident attendant" means an
9 individual who assists residents in a facility with the
10 following activities:

11 (1) eating and drinking; and

12 (2) personal hygiene limited to washing a resident's
13 hands and face, brushing and combing a resident's hair,
14 oral hygiene, shaving residents with an electric razor, and
15 applying makeup.

16 The term "resident attendant" does not include an
17 individual who:

18 (1) is a licensed health professional or a registered
19 dietitian;

20 (2) volunteers without monetary compensation;

21 (3) is a nurse assistant; or

22 (4) performs any nursing or nursing related services
23 for residents of a facility.

24 (b) A facility may employ resident attendants to assist the
25 nurse aides with the activities authorized under subsection

1 (a). The resident attendants shall not count in the minimum
2 staffing requirements under rules implementing this Act.

3 (c) A facility may not use on a full time or other paid
4 basis any individual as a resident attendant in the facility
5 unless the individual:

6 (1) has completed a training and competency evaluation
7 program encompassing the tasks the individual provides;
8 and

9 (2) is competent to provide feeding, hydration, and
10 personal hygiene services.

11 (d) The training and competency evaluation program may be
12 facility based. It may include one or more of the following
13 units:

14 (1) A feeding unit that is a maximum of 5 hours in
15 length.

16 (2) A hydration unit that is a maximum of 3 hours in
17 length.

18 (3) A personal hygiene unit that is a maximum of 5
19 hours in length. These programs must be reviewed and
20 approved by the Department every 2 years.

21 (e) (Blank).

22 (f) A person seeking employment as a resident attendant is
23 subject to the Health Care Worker Background Check Act.

24 Section 3-206.04. Transfer of ownership following
25 suspension or revocation; discussion with new owner. Whenever

1 ownership of a private facility is transferred to another
2 private owner following a final order for a suspension or
3 revocation of the facility's license, the Department shall
4 discuss with the new owner all noted problems associated with
5 the facility and shall determine what additional training, if
6 any, is needed for the direct care staff.

7 Section 3-206.05. Registry checks for employees.

8 (a) Within 60 days after the effective date of this Act,
9 the Department shall require all facilities to conduct required
10 registry checks on employees at the time of hire and annually
11 thereafter during employment. The required registries to be
12 checked are the Health Care Worker Registry, the Department of
13 Children and Family Services' State Central Register, and the
14 Illinois Sex Offender Registry. A person may not be employed if
15 he or she is found to have disqualifying convictions or
16 substantiated cases of abuse or neglect. At the time of the
17 annual registry checks, if a current employee's name has been
18 placed on a registry with disqualifying convictions or
19 disqualifying substantiated cases of abuse or neglect, then the
20 employee must be terminated. Disqualifying convictions or
21 disqualifying substantiated cases of abuse or neglect are
22 defined for the Department of Children and Family Services
23 Central Register by the Department of Children and Family
24 Services' standards for background checks in Part 385 of Title
25 89 of the Illinois Administrative Code. Disqualifying

1 convictions or disqualifying substantiated cases of abuse or
2 neglect are defined for the Health Care Worker Registry by the
3 Health Care Worker Background Check Act and within this Act. A
4 facility's failure to conduct the required registry checks will
5 constitute a Type "B" violation.

6 (b) In collaboration with the Department of Children and
7 Family Services and the Department of Human Services, the
8 Department shall establish a waiver process from the
9 prohibition of employment or termination of employment
10 requirements in subsection (a) of this Section for any
11 applicant or employee listed under the Department of Children
12 and Family Services' State Central Register seeking to be hired
13 or maintain his or her employment with a facility under this
14 Act. The waiver process for applicants and employees outlined
15 under Section 40 of the Health Care Worker Background Check Act
16 shall remain in effect for individuals listed on the Health
17 Care Worker Registry.

18 Section 3-207. Statement of ownership.

19 (a) As a condition of the issuance or renewal of the
20 license of any facility, the applicant shall file a statement
21 of ownership. The applicant shall update the information
22 required in the statement of ownership within 10 days of any
23 change.

24 (b) The statement of ownership shall include the following:

25 (1) The name, address, telephone number, occupation or

1 business activity, business address and business telephone
2 number of the person who is the owner of the facility and
3 every person who owns the building in which the facility is
4 located, if other than the owner of the facility, which is
5 the subject of the application or license; and if the owner
6 is a partnership or corporation, the name of every partner
7 and stockholder of the owner;

8 (2) The name and address of any facility, wherever
9 located, any financial interest in which is owned by the
10 applicant, if the facility were required to be licensed if
11 it were located in this State; and

12 (3) Other information necessary to determine the
13 identity and qualifications of an applicant or licensee to
14 operate a facility in accordance with this Act as required
15 by the Department in regulations.

16 (c) The information in the statement of ownership shall be
17 public information and shall be available from the Department.

18 Section 3-208. Annual financial statement.

19 (a) Each licensee shall file annually, or more often as the
20 Director shall by rule prescribe an attested financial
21 statement. The Director may order an audited financial
22 statement of a particular facility by an auditor of the
23 Director's choice, provided the cost of such audit is paid by
24 the Department.

25 (b) No public funds shall be expended for the maintenance

1 of any resident in a facility which has failed to file the
2 financial statement required under this Section and no public
3 funds shall be paid to or on behalf of a facility which has
4 failed to file a statement.

5 (c) The Director of Public Health and the Director of
6 Healthcare and Family Services shall promulgate under Sections
7 3-801 and 3-802, one set of regulations for the filing of these
8 financial statements, and shall provide in these regulations
9 for forms, required information, intervals and dates of filing
10 and such other provisions as they may deem necessary.

11 (d) The Director of Public Health and the Director of
12 Healthcare and Family Services shall seek the advice and
13 comments of other State and federal agencies which require the
14 submission of financial data from facilities licensed under
15 this Act and shall incorporate the information requirements of
16 these agencies so as to impose the least possible burden on
17 licensees. No other State agency may require submission of
18 financial data except as expressly authorized by law or as
19 necessary to meet requirements of federal statutes or
20 regulations. Information obtained under this Section shall be
21 made available, upon request, by the Department to any other
22 State agency or legislative commission to which such
23 information is necessary for investigations or required for the
24 purposes of State or federal law or regulation.

25 Section 3-209. Posting of information. Every facility

1 shall conspicuously post for display in an area of its offices
2 accessible to residents, employees, and visitors the
3 following:

4 (1) Its current license;

5 (2) A description, provided by the Department, of
6 complaint procedures established under this Act and the
7 name, address, and telephone number of a person authorized
8 by the Department to receive complaints;

9 (3) A copy of any order pertaining to the facility
10 issued by the Department or a court; and

11 (4) A list of the material available for public
12 inspection under Section 3-210.

13 Section 3-210. Materials for public inspection.

14 A facility shall retain the following for public
15 inspection:

16 (1) A complete copy of every inspection report of the
17 facility received from the Department during the past 5
18 years;

19 (2) A copy of every order pertaining to the facility
20 issued by the Department or a court during the past 5
21 years;

22 (3) A description of the services provided by the
23 facility and the rates charged for those services and items
24 for which a resident may be separately charged;

25 (4) A copy of the statement of ownership required by

1 Section 3-207;

2 (5) A record of personnel employed or retained by the
3 facility who are licensed, certified or registered by the
4 Department of Financial and Professional Regulation (as
5 successor to the Department of Professional Regulation);

6 (6) A complete copy of the most recent inspection
7 report of the facility received from the Department; and

8 (7) A copy of the current Consumer Choice Information
9 Report required by Section 2-214.

10 Section 3-211. No State or federal funds to unlicensed
11 facility. No State or federal funds which are appropriated by
12 the General Assembly or which pass through the General Revenue
13 Fund or any special fund in the State Treasury shall be paid to
14 a facility not having a license issued under this Act.

15 Section 3-212. Inspection of facility by Department;
16 report.

17 (a) The Department, whenever it deems necessary in
18 accordance with subsection (b), shall inspect, survey and
19 evaluate every facility to determine compliance with
20 applicable licensure requirements and standards. Submission of
21 a facility's current Consumer Choice Information Report
22 required by Section 2-214 shall be verified at the time of
23 inspection. An inspection should occur within 120 days prior to
24 license renewal. The Department may periodically visit a

1 facility for the purpose of consultation. An inspection,
2 survey, or evaluation, other than an inspection of financial
3 records, shall be conducted without prior notice to the
4 facility. A visit for the sole purpose of consultation may be
5 announced. The Department shall provide training to surveyors
6 about the appropriate assessment, care planning, and care of
7 persons with mental illness (other than Alzheimer's disease or
8 related disorders) to enable its surveyors to determine whether
9 a facility is complying with State and federal requirements
10 about the assessment, care planning, and care of those persons.

11 (a-1) An employee of a State or unit of local government
12 agency charged with inspecting, surveying, and evaluating
13 facilities who directly or indirectly gives prior notice of an
14 inspection, survey, or evaluation, other than an inspection of
15 financial records, to a facility or to an employee of a
16 facility is guilty of a Class A misdemeanor. An inspector or an
17 employee of the Department who intentionally prenotifies a
18 facility, orally or in writing, of a pending complaint
19 investigation or inspection shall be guilty of a Class A
20 misdemeanor. Superiors of persons who have prenotified a
21 facility shall be subject to the same penalties, if they have
22 knowingly allowed the prenotification. A person found guilty of
23 prenotifying a facility shall be subject to disciplinary action
24 by his or her employer. If the Department has a good faith
25 belief, based upon information that comes to its attention,
26 that a violation of this subsection has occurred, it must file

1 a complaint with the Attorney General or the State's Attorney
2 in the county where the violation took place within 30 days
3 after discovery of the information.

4 (a-2) An employee of a State or unit of local government
5 agency charged with inspecting, surveying, or evaluating
6 facilities who willfully profits from violating the
7 confidentiality of the inspection, survey, or evaluation
8 process shall be guilty of a Class 4 felony and that conduct
9 shall be deemed unprofessional conduct that may subject a
10 person to loss of his or her professional license. An action to
11 prosecute a person for violating this subsection (a-2) may be
12 brought by either the Attorney General or the State's Attorney
13 in the county where the violation took place.

14 (b) In determining whether to make more than the required
15 number of unannounced inspections, surveys and evaluations of a
16 facility the Department shall consider one or more of the
17 following: previous inspection reports; the facility's history
18 of compliance with standards, rules and regulations
19 promulgated under this Act and correction of violations,
20 penalties or other enforcement actions; the number and severity
21 of complaints received about the facility; any allegations of
22 resident abuse or neglect; weather conditions; health
23 emergencies; other reasonable belief that deficiencies exist.

24 (b-1) The Department shall not be required to determine
25 whether a facility certified to participate in the Medicare
26 program under Title XVIII of the Social Security Act, or the

1 Medicaid program under Title XIX of the Social Security Act,
2 and which the Department determines by inspection under this
3 Section or under Section 3-702 of this Act to be in compliance
4 with the certification requirements of Title XVIII or XIX, is
5 in compliance with any requirement of this Act that is less
6 stringent than or duplicates a federal certification
7 requirement. In accordance with subsection (a) of this Section
8 or subsection (d) of Section 3-702, the Department shall
9 determine whether a certified facility is in compliance with
10 requirements of this Act that exceed federal certification
11 requirements. If a certified facility is found to be out of
12 compliance with federal certification requirements, the
13 results of an inspection conducted pursuant to Title XVIII or
14 XIX of the Social Security Act may be used as the basis for
15 enforcement remedies authorized and commenced, with the
16 Department's discretion to evaluate whether penalties are
17 warranted, under this Act. Enforcement of this Act against a
18 certified facility shall be commenced pursuant to the
19 requirements of this Act, unless enforcement remedies sought
20 pursuant to Title XVIII or XIX of the Social Security Act
21 exceed those authorized by this Act. As used in this
22 subsection, "enforcement remedy" means a sanction for
23 violating a federal certification requirement or this Act.

24 (c) Upon completion of each inspection, survey and
25 evaluation, the appropriate Department personnel who conducted
26 the inspection, survey or evaluation shall submit a copy of

1 their report to the licensee upon exiting the facility, and
2 shall submit the actual report to the appropriate regional
3 office of the Department. Such report and any recommendations
4 for action by the Department under this Act shall be
5 transmitted to the appropriate offices of the associate
6 director of the Department, together with related comments or
7 documentation provided by the licensee which may refute
8 findings in the report, which explain extenuating
9 circumstances that the facility could not reasonably have
10 prevented, or which indicate methods and timetables for
11 correction of deficiencies described in the report. Without
12 affecting the application of subsection (a) of Section 3-303,
13 any documentation or comments of the licensee shall be provided
14 within 10 days of receipt of the copy of the report. Such
15 report shall recommend to the Director appropriate action under
16 this Act with respect to findings against a facility. The
17 Director shall then determine whether the report's findings
18 constitute a violation or violations of which the facility must
19 be given notice. Such determination shall be based upon the
20 severity of the finding, the danger posed to resident health
21 and safety, the comments and documentation provided by the
22 facility, the diligence and efforts to correct deficiencies,
23 correction of the reported deficiencies, the frequency and
24 duration of similar findings in previous reports and the
25 facility's general inspection history. The Department shall
26 determine violations under this subsection no later than 90

1 days after completion of each inspection, survey and
2 evaluation.

3 (d) The Department shall maintain all inspection, survey
4 and evaluation reports for at least 5 years in a manner
5 accessible to and understandable by the public.

6 (e) The Department shall conduct a revisit to its licensure
7 and certification surveys, consistent with federal regulations
8 and guidelines.

9 Section 3-213. Periodic reports to Department. The
10 Department shall require periodic reports and shall have access
11 to and may reproduce or photocopy at its cost any books,
12 records, and other documents maintained by the facility to the
13 extent necessary to carry out this Act and the rules
14 promulgated under this Act. The Department shall not divulge or
15 disclose the contents of a record under this Section in
16 violation of Section 2-206 or as otherwise prohibited by this
17 Act.

18 Section 3-214. Consent to Department inspection. Any
19 holder of a license or applicant for a license shall be deemed
20 to have given consent to any authorized officer, employee or
21 agent of the Department to enter and inspect the facility in
22 accordance with this Article. Refusal to permit such entry or
23 inspection shall constitute grounds for denial, nonrenewal or
24 revocation of a license as provided in Section 3-117 or 3-119

1 of this Act.

2 Section 3-215. Annual report on facility by Department. The
3 Department shall make at least one report on each facility in
4 the State annually, unless the facility has been issued a
5 2-year license under subsection (b) of Section 3-110 for which
6 the report shall be made every 2 years. All conditions and
7 practices not in compliance with applicable standards within
8 the report period shall be specifically stated. If a violation
9 is corrected or is subject to an approved plan of correction,
10 the same shall be specified in the report. The Department shall
11 send a copy to any person on receiving a written request. The
12 Department may charge a reasonable fee to cover copying costs.

13 Section 3-216. Fire inspections; authority.

14 (a) (Blank).

15 (b) For facilities licensed under this Act, the Office of
16 the State Fire Marshal shall provide the necessary fire
17 inspection to comply with licensing requirements. The Office of
18 the State Fire Marshal may enter into an agreement with another
19 State agency to conduct this inspection if qualified personnel
20 are employed by that agency. Code enforcement inspection of the
21 facility by the local authority shall only occur if the local
22 authority having jurisdiction enforces code requirements that
23 are more stringent than those enforced by the State Fire
24 Marshal. Nothing in this Section shall prohibit a local fire

1 authority from conducting fire incident planning activities.

2 PART 3. VIOLATIONS AND PENALTIES

3 Section 3-301. Notice of violation of Act or rules. If
4 after receiving the report specified in subsection (c) of
5 Section 3-212 the Director or his or her designee determines
6 that a facility is in violation of this Act or of any rule
7 promulgated thereunder, the Director or his or her designee
8 shall serve a notice of violation upon the licensee within 10
9 days thereafter. Each notice of violation shall be prepared in
10 writing and shall specify the nature of the violation, and the
11 statutory provision or rule alleged to have been violated. The
12 notice shall inform the licensee of any action the Department
13 may take under the Act, including the requirement of a facility
14 plan of correction under Section 3-303; placement of the
15 facility on a list prepared under Section 3-304; assessment of
16 a penalty under Section 3-305; a conditional license under
17 Sections 3-311 through 3-317; or license suspension or
18 revocation under Section 3-119. The Director or his or her
19 designee shall also inform the licensee of rights to a hearing
20 under Section 3-703.

21 Section 3-302. Each day a separate violation. Each day the
22 violation exists after the date upon which a notice of
23 violation is served under Section 3-301 shall constitute a

1 separate violation for purposes of assessing penalties or fines
2 under Section 3-305. The submission of a plan of correction
3 pursuant to subsection (b) of Section 3-303 does not prohibit
4 or preclude the Department from assessing penalties or fines
5 pursuant to Section 3-305 for those violations found to be
6 valid except as provided under Section 3-308 in relation to
7 Type "B" violations. No penalty or fine may be assessed for a
8 condition for which the facility has received a variance or
9 waiver of a standard.

10 Section 3-303. Correction of violations; hearing.

11 (a) The situation, condition or practice constituting a
12 Type "AA" violation or a Type "A" violation shall be abated or
13 eliminated immediately unless a fixed period of time, not
14 exceeding 15 days, as determined by the Department and
15 specified in the notice of violation, is required for
16 correction.

17 (b) At the time of issuance of a notice of a Type "B"
18 violation, the Department shall request a plan of correction
19 which is subject to the Department's approval. The facility
20 shall have 10 days after receipt of notice of violation in
21 which to prepare and submit a plan of correction. The
22 Department may extend this period up to 30 days where
23 correction involves substantial capital improvement. The plan
24 shall include a fixed time period not in excess of 90 days
25 within which violations are to be corrected. If the Department

1 rejects a plan of correction, it shall send notice of the
2 rejection and the reason for the rejection to the facility. The
3 facility shall have 10 days after receipt of the notice of
4 rejection in which to submit a modified plan. If the modified
5 plan is not timely submitted, or if the modified plan is
6 rejected, the facility shall follow an approved plan of
7 correction imposed by the Department.

8 (c) If the violation has been corrected prior to submission
9 and approval of a plan of correction, the facility may submit a
10 report of correction in place of a plan of correction. Such
11 report shall be signed by the administrator under oath.

12 (d) Upon a licensee's petition, the Department shall
13 determine whether to grant a licensee's request for an extended
14 correction time. Such petition shall be served on the
15 Department prior to expiration of the correction time
16 originally approved. The burden of proof is on the petitioning
17 facility to show good cause for not being able to comply with
18 the original correction time approved.

19 (e) If a facility desires to contest any Department action
20 under this Section it shall send a written request for a
21 hearing under Section 3-703 to the Department within 10 days of
22 receipt of notice of the contested action. The Department shall
23 commence the hearing as provided under Section 3-703. Whenever
24 possible, all action of the Department under this Section
25 arising out of a violation shall be contested and determined at
26 a single hearing. Issues decided after a hearing may not be

1 reheard at subsequent hearings under this Section.

2 Section 3-303.1. Waiver of facility's compliance with rule
3 or standard. Upon application by a facility, the Director may
4 grant or renew the waiver of the facility's compliance with a
5 rule or standard for a period not to exceed the duration of the
6 current license or, in the case of an application for license
7 renewal, the duration of the renewal period. The waiver may be
8 conditioned upon the facility taking action prescribed by the
9 Director as a measure equivalent to compliance. In determining
10 whether to grant or renew a waiver, the Director shall consider
11 the duration and basis for any current waiver with respect to
12 the same rule or standard and the validity and effect upon
13 patient health and safety of extending it on the same basis,
14 the effect upon the health and safety of residents, the quality
15 of resident care, the facility's history of compliance with the
16 rules and standards of this Act and the facility's attempts to
17 comply with the particular rule or standard in question. The
18 Department may provide, by rule, for the automatic renewal of
19 waivers concerning physical plant requirements upon the
20 renewal of a license. The Department shall renew waivers
21 relating to physical plant standards issued pursuant to this
22 Section at the time of the indicated reviews, unless it can
23 show why such waivers should not be extended for the following
24 reasons:

25 (a) the condition of the physical plant has deteriorated or

1 its use substantially changed so that the basis upon which the
2 waiver was issued is materially different; or

3 (b) the facility is renovated or substantially remodeled in
4 such a way as to permit compliance with the applicable rules
5 and standards without substantial increase in cost. A copy of
6 each waiver application and each waiver granted or renewed
7 shall be on file with the Department and available for public
8 inspection. The Director shall annually review such file and
9 recommend to the DD Facility Advisory Board established under
10 Section 2-204 of the ID/DD Community Care Act any modification
11 in rules or standards suggested by the number and nature of
12 waivers requested and granted and the difficulties faced in
13 compliance by similarly situated facilities.

14 Section 3-303.2. Administrative warning.

15 (a) If the Department finds a situation, condition or
16 practice which violates this Act or any rule promulgated
17 thereunder which does not constitute a Type "AA", Type "A",
18 Type "B", or Type "C" violation, the Department shall issue an
19 administrative warning. Any administrative warning shall be
20 served upon the facility in the same manner as the notice of
21 violation under Section 3-301. The facility shall be
22 responsible for correcting the situation, condition or
23 practice; however, no written plan of correction need be
24 submitted for an administrative warning, except for violations
25 of Sections 3-401 through 3-413 or the rules promulgated

1 thereunder. A written plan of correction is required to be
2 filed for an administrative warning issued for violations of
3 Sections 3-401 through 3-413 or the rules promulgated
4 thereunder.

5 (b) If, however, the situation, condition or practice which
6 resulted in the issuance of an administrative warning, with the
7 exception of administrative warnings issued pursuant to
8 Sections 3-401 through 3-413 or the rules promulgated
9 thereunder, is not corrected by the next on site inspection by
10 the Department which occurs no earlier than 90 days from the
11 issuance of the administrative warning, a written plan of
12 correction must be submitted in the same manner as provided in
13 subsection (b) of Section 3-303.

14 Section 3-304. Quarterly list of facilities against which
15 Department has taken action.

16 (a) The Department shall prepare on a quarterly basis a
17 list containing the names and addresses of all facilities
18 against which the Department during the previous quarter has:

19 (1) sent a notice under Section 3-307 regarding a
20 penalty assessment under subsection (1) of Section 3-305;

21 (2) sent a notice of license revocation under Section
22 3-119;

23 (3) sent a notice refusing renewal of a license under
24 Section 3-119;

25 (4) sent a notice to suspend a license under Section

1 3-119;

2 (5) issued a conditional license for violations that
3 have not been corrected under Section 3-303 or penalties or
4 fines described under Section 3-305 have been assessed
5 under Section 3-307 or 3-308;

6 (6) placed a monitor under subsections (a), (b) and (c)
7 of Section 3-501 and under subsection (d) of such Section
8 where license revocation or nonrenewal notices have also
9 been issued;

10 (7) initiated an action to appoint a receiver;

11 (8) recommended to the Director of Healthcare and
12 Family Services, or the Secretary of the United States
13 Department of Health and Human Services, the
14 decertification for violations in relation to patient care
15 of a facility pursuant to Titles XVIII and XIX of the
16 federal Social Security Act.

17 (b) In addition to the name and address of the facility,
18 the list shall include the name and address of the person or
19 licensee against whom the action has been initiated, a self
20 explanatory summary of the facts which warranted the initiation
21 of each action, the type of action initiated, the date of the
22 initiation of the action, the amount of the penalty sought to
23 be assessed, if any, and the final disposition of the action,
24 if completed.

25 (c) The list shall be available to any member of the public
26 upon oral or written request without charge.

1 Section 3-304.1. Public computer access to information.

2 (a) The Department must make information regarding nursing
3 homes in the State available to the public in electronic form
4 on the World Wide Web, including all of the following
5 information:

6 (1) who regulates facilities licensed under this Act;

7 (2) information in the possession of the Department
8 that is listed in Sections 3-210 and 3-304;

9 (3) deficiencies and plans of correction;

10 (4) enforcement remedies;

11 (5) penalty letters;

12 (6) designation of penalty monies;

13 (7) the U.S. Department of Health and Human Services'
14 Health Care Financing Administration special projects or
15 federally required inspections;

16 (8) advisory standards;

17 (9) deficiency free surveys;

18 (10) enforcement actions and enforcement summaries;

19 and

20 (11) distressed facilities.

21 (b) No fee or other charge may be imposed by the Department
22 as a condition of accessing the information.

23 (c) The electronic public access provided through the World
24 Wide Web shall be in addition to any other electronic or print
25 distribution of the information.

1 (d) The information shall be made available as provided in
2 this Section in the shortest practicable time after it is
3 publicly available in any other form.

4 Section 3-304.2. Designation of distressed facilities.

5 (a) The Department shall, by rule, adopt criteria to
6 identify facilities that are distressed and shall publish this
7 list quarterly. No facility shall be identified as a distressed
8 facility unless it has committed violations or deficiencies
9 that have actually harmed residents.

10 (b) The Department shall notify each facility and licensee
11 of its distressed designation and of the calculation on which
12 it is based.

13 (c) A distressed facility may contract with an independent
14 consultant meeting criteria established by the Department. If
15 the distressed facility does not seek the assistance of an
16 independent consultant, then the Department shall place a
17 monitor or a temporary manager in the facility, depending on
18 the Department's assessment of the condition of the facility.

19 (d) A facility that has been designated a distressed
20 facility may contract with an independent consultant to develop
21 and assist in the implementation of a plan of improvement to
22 bring and keep the facility in compliance with this Act and, if
23 applicable, with federal certification requirements. A
24 facility that contracts with an independent consultant shall
25 have 90 days to develop a plan of improvement and demonstrate a

1 good faith effort at implementation, and another 90 days to
2 achieve compliance and take whatever additional actions are
3 called for in the improvement plan to maintain compliance in
4 this subsection (d). "Independent" consultant means an
5 individual who has no professional or financial relationship
6 with the facility, any person with a reportable ownership
7 interest in the facility, or any related parties. In this
8 subsection (d), "related parties" has the meaning attributed to
9 it in the instructions for completing Medicaid cost reports.

10 (e) A distressed facility that does not contract with a
11 consultant shall be assigned a monitor or a temporary manager
12 at the Department's discretion. The cost of the temporary
13 manager shall be paid by the Department. The authority afforded
14 the temporary manager shall be determined through rulemaking.

15 If a distressed facility that contracts with an independent
16 consultant but does not, in a timely manner, develop an
17 adequate plan of improvement or comply with the plan of
18 improvement, then the Department may place a monitor in the
19 facility.

20 Nothing in this Section shall limit the authority of the
21 Department to place a monitor in a distressed facility if
22 otherwise justified by law.

23 (f) The Department shall by rule establish a mentor program
24 for owners of distressed facilities. That a mentor program does
25 not exist, or that a mentor is not available to assist a
26 distressed facility, shall not delay or prevent the imposition

1 of any penalties on a distressed facility, authorized by this
2 Act.

3 Section 3-305. Penalties or fines. The license of a
4 facility which is in violation of this Act or any rule adopted
5 thereunder may be subject to the penalties or fines levied by
6 the Department as specified in this Section.

7 (1) A licensee who commits a Type "AA" violation as
8 defined in Section 1-128.5 is automatically issued a
9 conditional license for a period of 6 months to coincide
10 with an acceptable plan of correction and assessed a fine
11 of up to \$25,000 per violation. For a facility licensed to
12 provide care to fewer than 100 residents, but no less than
13 17 residents, the fine shall be up to \$18,500 per
14 violation. For a facility licensed to provide care to fewer
15 than 17 residents, the fine shall be up to \$12,500 per
16 violation.

17 (1.5) A licensee who commits a Type "A" violation as
18 defined in Section 1-129 is automatically issued a
19 conditional license for a period of 6 months to coincide
20 with an acceptable plan of correction and assessed a fine
21 of up to \$12,500 per violation. For a facility licensed to
22 provide care to fewer than 100 residents, but no less than
23 17 residents, the fine shall be up to \$10,000 per
24 violation. For a facility licensed to provide care to fewer
25 than 17 residents, the fine shall be up to \$6,250 per

1 violation.

2 (2) A licensee who commits a Type "B" violation as
3 defined in Section 1-130 shall be assessed a fine of up to
4 \$1,100 per violation. For a facility licensed to provide
5 care to fewer than 100 residents, but no less than 17
6 residents, the fine shall be up to \$750 per violation. For
7 a facility licensed to provide care to fewer than 17
8 residents, the fine shall be up to \$550 per violation.

9 (2.5) A licensee who commits 8 or more Type "C"
10 violations as defined in Section 1-132 in a single survey
11 shall be assessed a fine of up to \$250 per violation. A
12 facility licensed to provide care to fewer than 100
13 residents, but no less than 17 residents, that commits 8 or
14 more Type "C" violations in a single survey, shall be
15 assessed a fine of up to \$200 per violation. A facility
16 licensed to provide care to fewer than 17 residents, that
17 commits 8 or more Type "C" violations in a single survey,
18 shall be assessed a fine of up to \$175 per violation.

19 (3) A licensee who commits a Type "AA" or Type "A"
20 violation as defined in Section 1-128.5 or 1-129 which
21 continues beyond the time specified in paragraph (a) of
22 Section 3-303 which is cited as a repeat violation shall
23 have its license revoked and shall be assessed a fine of 3
24 times the fine computed under subsection (1).

25 (4) A licensee who fails to satisfactorily comply with
26 an accepted plan of correction for a Type "B" violation or

1 an administrative warning issued pursuant to Sections
2 3-401 through 3-413 or the rules promulgated thereunder
3 shall be automatically issued a conditional license for a
4 period of not less than 6 months. A second or subsequent
5 acceptable plan of correction shall be filed. A fine shall
6 be assessed in accordance with subsection (2) when cited
7 for the repeat violation. This fine shall be computed for
8 all days of the violation, including the duration of the
9 first plan of correction compliance time.

10 (5) (Blank).

11 (6) When the Department finds that a provision of
12 Article II has been violated with regard to a particular
13 resident, the Department shall issue an order requiring the
14 facility to reimburse the resident for injuries incurred,
15 or \$100, whichever is greater. In the case of a violation
16 involving any action other than theft of money belonging to
17 a resident, reimbursement shall be ordered only if a
18 provision of Article II has been violated with regard to
19 that or any other resident of the facility within the 2
20 years immediately preceding the violation in question.

21 (7) For purposes of assessing fines under this Section,
22 a repeat violation shall be a violation which has been
23 cited during one inspection of the facility for which an
24 accepted plan of correction was not complied with or a new
25 citation of the same rule if the licensee is not
26 substantially addressing the issue routinely throughout

1 the facility.

2 (8) If an occurrence results in more than one type of
3 violation as defined in this Act (that is, a Type "AA",
4 Type "A", Type "B", or Type "C" violation), then the
5 maximum fine that may be assessed for that occurrence is
6 the maximum fine that may be assessed for the most serious
7 type of violation charged. For purposes of the preceding
8 sentence, a Type "AA" violation is the most serious type of
9 violation that may be charged, followed by a Type "A", Type
10 "B", or Type "C" violation, in that order.

11 (9) If any facility willfully makes a misstatement of
12 fact to the Department or willfully fails to make a
13 required notification to the Department and that
14 misstatement or failure delays the start of a survey or
15 impedes a survey, then it will constitute a Type "B"
16 violation. The minimum and maximum fines that may be
17 assessed pursuant to this subsection (9) shall be 3 times
18 those otherwise specified for any facility.

19 (10) If the Department finds that a facility has
20 violated a provision of the Illinois Administrative Code
21 that has a high-risk designation or that a facility has
22 violated the same provision of the Illinois Administrative
23 Code 3 or more times in the previous 12 months, then the
24 Department may assess a fine of up to 2 times the maximum
25 fine otherwise allowed.

1 Section 3-306. Factors to be considered in determining
2 penalty. In determining whether a penalty is to be imposed and
3 in determining the amount of the penalty to be imposed, if any,
4 for a violation, the Director shall consider the following
5 factors:

6 (1) The gravity of the violation, including the
7 probability that death or serious physical or mental harm
8 to a resident will result or has resulted; the severity of
9 the actual or potential harm, and the extent to which the
10 provisions of the applicable statutes or regulations were
11 violated;

12 (2) The reasonable diligence exercised by the licensee
13 and efforts to correct violations;

14 (3) Any previous violations committed by the licensee;
15 and

16 (4) The financial benefit to the facility of committing
17 or continuing the violation.

18 Section 3-307. Assessment of penalties; notice. The
19 Director may directly assess penalties provided for under
20 Section 3-305 of this Act. If the Director determines that a
21 penalty should be assessed for a particular violation or for
22 failure to correct it, the Director shall send a notice to the
23 facility. The notice shall specify the amount of the penalty
24 assessed, the violation, the statute or rule alleged to have
25 been violated, and shall inform the licensee of the right to

1 hearing under Section 3-703 of this Act. If the violation is
2 continuing, the notice shall specify the amount of additional
3 assessment per day for the continuing violation.

4 Section 3-308. Time of assessment; plan of correction. In
5 the case of a Type "AA" or Type "A" violation, a penalty may be
6 assessed from the date on which the violation is discovered. In
7 the case of a Type "B" or Type "C" violation or an
8 administrative warning issued pursuant to Sections 3-401
9 through 3-413 or the rules promulgated thereunder, the facility
10 shall submit a plan of correction as provided in Section 3-303.
11 In the case of a Type "B" violation or an administrative
12 warning issued pursuant to Sections 3-401 through 3-413 or the
13 rules promulgated thereunder, a penalty shall be assessed on
14 the date of notice of the violation, but the Director may
15 reduce the amount or waive such payment for any of the
16 following reasons:

17 (a) The facility submits a true report of correction within
18 10 days;

19 (b) The facility submits a plan of correction within 10
20 days and subsequently submits a true report of correction
21 within 15 days thereafter;

22 (c) The facility submits a plan of correction within 10
23 days which provides for a correction time that is less than or
24 equal to 30 days and the Department approves such plan; or

25 (d) The facility submits a plan of correction for

1 violations involving substantial capital improvements which
2 provides for correction within the initial 90 day limit
3 provided under Section 3-303. The Director shall consider the
4 following factors in determinations to reduce or waive such
5 penalties:

6 (1) The violation has not caused actual harm to a
7 resident;

8 (2) The facility has made a diligent effort to correct
9 the violation and to prevent its recurrence;

10 (3) The facility has no record of a pervasive pattern
11 of the same or similar violations; and

12 (4) The facility has a record of substantial compliance
13 with this Act and the regulations promulgated hereunder.

14 If a plan of correction is approved and carried out for a
15 Type "C" violation, the fine provided under Section 3-305 shall
16 be suspended for the time period specified in the approved plan
17 of correction. If a plan of correction is approved and carried
18 out for a Type "B" violation or an administrative warning
19 issued pursuant to Sections 3-401 through 3-413 or the rules
20 promulgated thereunder, with respect to a violation that
21 continues after the date of notice of violation, the fine
22 provided under Section 3-305 shall be suspended for the time
23 period specified in the approved plan of correction.

24 If a good faith plan of correction is not received within
25 the time provided by Section 3-303, a penalty may be assessed
26 from the date of the notice of the Type "B" or "C" violation or

1 an administrative warning issued pursuant to Sections 3-401
2 through 3-413 or the rules promulgated thereunder served under
3 Section 3-301 until the date of the receipt of a good faith
4 plan of correction, or until the date the violation is
5 corrected, whichever is earlier. If a violation is not
6 corrected within the time specified by an approved plan of
7 correction or any lawful extension thereof, a penalty may be
8 assessed from the date of notice of the violation, until the
9 date the violation is corrected.

10 Section 3-309. Contesting assessment of penalty. A
11 facility may contest an assessment of a penalty by sending a
12 written request to the Department for hearing under Section
13 3-703. Upon receipt of the request the Department shall hold a
14 hearing as provided under Section 3-703. Instead of requesting
15 a hearing pursuant to Section 3-703, a facility may, within 10
16 business days after receipt of the notice of violation and fine
17 assessment, transmit to the Department 65% of the amount
18 assessed for each violation specified in the penalty
19 assessment.

20 Section 3-310. Collection of penalties. All penalties
21 shall be paid to the Department within 10 days of receipt of
22 notice of assessment or, if the penalty is contested under
23 Section 3-309, within 10 days of receipt of the final decision,
24 unless the decision is appealed and the order is stayed by

1 court order under Section 3-713. A facility choosing to waive
2 the right to a hearing under Section 3-309 shall submit a
3 payment totaling 65% of the original fine amount along with the
4 written waiver. A penalty assessed under this Act shall be
5 collected by the Department and shall be deposited with the
6 State Treasurer into the Long Term Care Monitor/Receiver Fund.
7 If the person or facility against whom a penalty has been
8 assessed does not comply with a written demand for payment
9 within 30 days, the Director shall issue an order to do any of
10 the following:

11 (1) Direct the State Treasurer or Comptroller to deduct
12 the amount of the fine from amounts otherwise due from the
13 State for the penalty, including any payments to be made
14 from the Care Provider Fund for Persons with a
15 Developmental Disability established under Section 5C-7 of
16 the Illinois Public Aid Code, and remit that amount to the
17 Department;

18 (2) Add the amount of the penalty to the facility's
19 licensing fee; if the licensee refuses to make the payment
20 at the time of application for renewal of its license, the
21 license shall not be renewed; or

22 (3) Bring an action in circuit court to recover the
23 amount of the penalty.

24 Section 3-311. Issuance of conditional license in addition
25 to penalties. In addition to the right to assess penalties

1 under this Act, the Director may issue a conditional license
2 under Section 3-305 to any facility if the Director finds that
3 either a Type "A" or Type "B" violation exists in such
4 facility. The issuance of a conditional license shall revoke
5 any license held by the facility.

6 Section 3-312. Plan of correction required before issuance
7 of conditional license. Prior to the issuance of a conditional
8 license, the Department shall review and approve a written plan
9 of correction. The Department shall specify the violations
10 which prevent full licensure and shall establish a time
11 schedule for correction of the deficiencies. Retention of the
12 license shall be conditional on the timely correction of the
13 deficiencies in accordance with the plan of correction.

14 Section 3-313. Notice of issuance of conditional license.
15 Written notice of the decision to issue a conditional license
16 shall be sent to the applicant or licensee together with the
17 specification of all violations of this Act and the rules
18 promulgated thereunder which prevent full licensure and which
19 form the basis for the Department's decision to issue a
20 conditional license and the required plan of correction. The
21 notice shall inform the applicant or licensee of its right to a
22 full hearing under Section 3-315 to contest the issuance of the
23 conditional license.

1 Section 3-315. Hearing on conditional license or plan of
2 correction. If the applicant or licensee desires to contest the
3 basis for issuance of a conditional license, or the terms of
4 the plan of correction, the applicant or licensee shall send a
5 written request for hearing to the Department within 10 days
6 after receipt by the applicant or licensee of the Department's
7 notice and decision to issue a conditional license. The
8 Department shall hold the hearing as provided under Section
9 3-703.

10 Section 3-316. Period of conditional license. A
11 conditional license shall be issued for a period specified by
12 the Department, but in no event for more than one year. The
13 Department shall periodically inspect any facility operating
14 under a conditional license. If the Department finds
15 substantial failure by the facility to timely correct the
16 violations which prevented full licensure and formed the basis
17 for the Department's decision to issue a conditional license in
18 accordance with the required plan of correction, the
19 conditional license may be revoked as provided under Section
20 3-119.

21 Section 3-318. Business offenses.

22 (a) No person shall:

23 (1) Intentionally fail to correct or interfere with the
24 correction of a Type "AA", Type "A", or Type "B" violation

1 within the time specified on the notice or approved plan of
2 correction under this Act as the maximum period given for
3 correction, unless an extension is granted and the
4 corrections are made before expiration of extension;

5 (2) Intentionally prevent, interfere with, or attempt
6 to impede in any way any duly authorized investigation and
7 enforcement of this Act;

8 (3) Intentionally prevent or attempt to prevent any
9 examination of any relevant books or records pertinent to
10 investigations and enforcement of this Act;

11 (4) Intentionally prevent or interfere with the
12 preservation of evidence pertaining to any violation of
13 this Act or the rules promulgated under this Act;

14 (5) Intentionally retaliate or discriminate against
15 any resident or employee for contacting or providing
16 information to any state official, or for initiating,
17 participating in, or testifying in an action for any remedy
18 authorized under this Act;

19 (6) Willfully file any false, incomplete or
20 intentionally misleading information required to be filed
21 under this Act, or willfully fail or refuse to file any
22 required information; or

23 (7) Open or operate a facility without a license.

24 (b) A violation of this Section is a business offense,
25 punishable by a fine not to exceed \$10,000, except as otherwise
26 provided in subsection (2) of Section 3-103 as to submission of

1 false or misleading information in a license application.

2 (c) The State's Attorney of the county in which the
3 facility is located, or the Attorney General, shall be notified
4 by the Director of any violations of this Section.

5 Section 3-320. Review under Administrative Review Law. All
6 final administrative decisions of the Department under this Act
7 are subject to judicial review under the Administrative Review
8 Law, as now or hereafter amended, and the rules adopted
9 pursuant thereto. The term "administrative decision" is
10 defined as in Section 3-101 of the Code of Civil Procedure.

11 PART 4. DISCHARGE AND TRANSFER

12 Section 3-401. Involuntary transfer or discharge of
13 resident. A facility may involuntarily transfer or discharge a
14 resident only for one or more of the following reasons:

15 (a) for medical reasons;

16 (b) for the resident's physical safety;

17 (c) for the physical safety of other residents, the
18 facility staff or facility visitors; or

19 (d) for either late payment or nonpayment for the
20 resident's stay, except as prohibited by Titles XVIII and XIX
21 of the federal Social Security Act. For purposes of this
22 Section, "late payment" means non-receipt of payment after
23 submission of a bill. If payment is not received within 45 days

1 after submission of a bill, a facility may send a notice to the
2 resident and responsible party requesting payment within 30
3 days. If payment is not received within such 30 days, the
4 facility may thereupon institute transfer or discharge
5 proceedings by sending a notice of transfer or discharge to the
6 resident and responsible party by registered or certified mail.
7 The notice shall state, in addition to the requirements of
8 Section 3-403 of this Act, that the responsible party has the
9 right to pay the amount of the bill in full up to the date the
10 transfer or discharge is to be made and then the resident shall
11 have the right to remain in the facility. Such payment shall
12 terminate the transfer or discharge proceedings. This
13 subsection does not apply to those residents whose care is
14 provided for under the Illinois Public Aid Code. The Department
15 shall adopt rules setting forth the criteria and procedures to
16 be applied in cases of involuntary transfer or discharge
17 permitted under this Section.

18 Section 3-401.1. Medical assistance recipients.

19 (a) A facility participating in the Medical Assistance
20 Program is prohibited from failing or refusing to retain as a
21 resident any person because he or she is a recipient of or an
22 applicant for the Medical Assistance Program under Article V of
23 the Illinois Public Aid Code.

24 (a-5) A facility of which only a distinct part is certified
25 to participate in the Medical Assistance Program may refuse to

1 retain as a resident any person who resides in a part of the
2 facility that does not participate in the Medical Assistance
3 Program and who is unable to pay for his or her care in the
4 facility without Medical Assistance only if:

5 (1) the facility, no later than at the time of
6 admission and at the time of the resident's contract
7 renewal, explains to the resident (unless he or she is
8 incompetent), and to the resident's representative, and to
9 the person making payment on behalf of the resident for the
10 resident's stay, in writing, that the facility may
11 discharge the resident if the resident is no longer able to
12 pay for his or her care in the facility without Medical
13 Assistance; and

14 (2) the resident (unless he or she is incompetent), the
15 resident's representative, and the person making payment
16 on behalf of the resident for the resident's stay,
17 acknowledge in writing that they have received the written
18 explanation.

19 (a-10) For the purposes of this Section, a recipient or
20 applicant shall be considered a resident in the facility during
21 any hospital stay totaling 10 days or less following a hospital
22 admission. The Department of Healthcare and Family Services
23 shall recoup funds from a facility when, as a result of the
24 facility's refusal to readmit a recipient after
25 hospitalization for 10 days or less, the recipient incurs
26 hospital bills in an amount greater than the amount that would

1 have been paid by that Department for care of the recipient in
2 the facility. The amount of the recoupment shall be the
3 difference between the Department of Healthcare and Family
4 Services' payment for hospital care and the amount that
5 Department would have paid for care in the facility.

6 (b) A facility which violates this Section shall be guilty
7 of a business offense and fined not less than \$500 nor more
8 than \$1,000 for the first offense and not less than \$1,000 nor
9 more than \$5,000 for each subsequent offense.

10 Section 3-402. Notice of involuntary transfer or
11 discharge. Involuntary transfer or discharge of a resident from
12 a facility shall be preceded by the discussion required under
13 Section 3-408 and by a minimum written notice of 21 days,
14 except in one of the following instances:

15 (a) When an emergency transfer or discharge is ordered by
16 the resident's attending physician because of the resident's
17 health care needs.

18 (b) When the transfer or discharge is mandated by the
19 physical safety of other residents, the facility staff, or
20 facility visitors, as documented in the clinical record. The
21 Department shall be notified prior to any such involuntary
22 transfer or discharge. The Department shall immediately offer
23 transfer, or discharge and relocation assistance to residents
24 transferred or discharged under this subparagraph (b), and the
25 Department may place relocation teams as provided in Section

1 3-419 of this Act.

2 Section 3-403. Contents of notice; right to hearing. The
3 notice required by Section 3-402 shall be on a form prescribed
4 by the Department and shall contain all of the following:

5 (a) The stated reason for the proposed transfer or
6 discharge;

7 (b) The effective date of the proposed transfer or
8 discharge;

9 (c) A statement in not less than 12 point type, which
10 reads: "You have a right to appeal the facility's decision to
11 transfer or discharge you. If you think you should not have to
12 leave this facility, you may file a request for a hearing with
13 the Department of Public Health within 10 days after receiving
14 this notice. If you request a hearing, it will be held not
15 later than 10 days after your request, and you generally will
16 not be transferred or discharged during that time. If the
17 decision following the hearing is not in your favor, you
18 generally will not be transferred or discharged prior to the
19 expiration of 30 days following receipt of the original notice
20 of the transfer or discharge. A form to appeal the facility's
21 decision and to request a hearing is attached. If you have any
22 questions, call the Department of Public Health at the
23 telephone number listed below.";

24 (d) A hearing request form, together with a postage paid,
25 preaddressed envelope to the Department; and

1 (e) The name, address, and telephone number of the person
2 charged with the responsibility of supervising the transfer or
3 discharge.

4 Section 3-404. Request for hearing; effect on transfer. A
5 request for a hearing made under Section 3-403 shall stay a
6 transfer pending a hearing or appeal of the decision, unless a
7 condition which would have allowed transfer or discharge in
8 less than 21 days as described under paragraphs (a) and (b) of
9 Section 3-402 develops in the interim.

10 Section 3-405. Copy of notice in resident's record; copy to
11 Department. A copy of the notice required by Section 3-402
12 shall be placed in the resident's clinical record and a copy
13 shall be transmitted to the Department, the resident, and the
14 resident's representative.

15 Section 3-406. Medical assistance recipient; transfer or
16 discharge as result of action by Department of Healthcare and
17 Family Services. When the basis for an involuntary transfer or
18 discharge is the result of an action by the Department of
19 Healthcare and Family Services with respect to a recipient of
20 assistance under Title XIX of the Social Security Act and a
21 hearing request is filed with the Department of Healthcare and
22 Family Services, the 21-day written notice period shall not
23 begin until a final decision in the matter is rendered by the

1 Department of Healthcare and Family Services or a court of
2 competent jurisdiction and notice of that final decision is
3 received by the resident and the facility.

4 Section 3-407. Nonpayment as basis for transfer or
5 discharge. When nonpayment is the basis for involuntary
6 transfer or discharge, the resident shall have the right to
7 redeem up to the date that the discharge or transfer is to be
8 made and then shall have the right to remain in the facility.

9 Section 3-408. Discussion of planned transfer or
10 discharge. The planned involuntary transfer or discharge shall
11 be discussed with the resident, the resident's representative
12 and person or agency responsible for the resident's placement,
13 maintenance, and care in the facility. The explanation and
14 discussion of the reasons for involuntary transfer or discharge
15 shall include the facility administrator or other appropriate
16 facility representative as the administrator's designee. The
17 content of the discussion and explanation shall be summarized
18 in writing and shall include the names of the individuals
19 involved in the discussions and made a part of the resident's
20 clinical record.

21 Section 3-409. Counseling services. The facility shall
22 offer the resident counseling services before the transfer or
23 discharge of the resident.

1 Section 3-410. Request for hearing on transfer or
2 discharge. A resident subject to involuntary transfer or
3 discharge from a facility, the resident's guardian or if the
4 resident is a minor, his or her parent shall have the
5 opportunity to file a request for a hearing with the Department
6 within 10 days following receipt of the written notice of the
7 involuntary transfer or discharge by the facility.

8 Section 3-411. Hearing; time. The Department of Public
9 Health, when the basis for involuntary transfer or discharge is
10 other than action by the Department of Healthcare and Family
11 Services with respect to the Title XIX Medicaid recipient,
12 shall hold a hearing at the resident's facility not later than
13 10 days after a hearing request is filed, and render a decision
14 within 14 days after the filing of the hearing request.

15 Section 3-412. Conduct of hearing. The hearing before the
16 Department provided under Section 3-411 shall be conducted as
17 prescribed under Section 3-703. In determining whether a
18 transfer or discharge is authorized, the burden of proof in
19 this hearing rests on the person requesting the transfer or
20 discharge.

21 Section 3-413. Time for leaving facility. If the Department
22 determines that a transfer or discharge is authorized under

1 Section 3-401, the resident shall not be required to leave the
2 facility before the 34th day following receipt of the notice
3 required under Section 3-402, or the 10th day following receipt
4 of the Department's decision, whichever is later, unless a
5 condition which would have allowed transfer or discharge in
6 less than 21 days as described under paragraphs (a) and (b) of
7 Section 3-402 develops in the interim.

8 Section 3-414. Continuation of medical assistance funding.
9 The Department of Healthcare and Family Services shall continue
10 Title XIX Medicaid funding during the appeal, transfer, or
11 discharge period for those residents who are recipients of
12 assistance under Title XIX of the Social Security Act affected
13 by Section 3-401.

14 Section 3-415. Transfer or discharge by Department;
15 grounds. The Department may transfer or discharge any resident
16 from any facility required to be licensed under this Act when
17 any of the following conditions exist:

18 (a) Such facility is operating without a license;

19 (b) The Department has suspended, revoked or refused to
20 renew the license of the facility as provided under Section
21 3-119;

22 (c) The facility has requested the aid of the Department in
23 the transfer or discharge of the resident and the Department
24 finds that the resident consents to transfer or discharge;

1 (d) The facility is closing or intends to close and
2 adequate arrangement for relocation of the resident has not
3 been made at least 30 days prior to closure; or

4 (e) The Department determines that an emergency exists
5 which requires immediate transfer or discharge of the resident.

6 Section 3-416. Transfer or discharge by Department;
7 likelihood of serious harm. In deciding to transfer or
8 discharge a resident from a facility under Section 3-415, the
9 Department shall consider the likelihood of serious harm which
10 may result if the resident remains in the facility.

11 Section 3-417. Relocation assistance. The Department shall
12 offer transfer or discharge and relocation assistance to
13 residents transferred or discharged under Sections 3-401
14 through 3-415, including information on available alternative
15 placements. Residents shall be involved in planning the
16 transfer or discharge and shall choose among the available
17 alternative placements, except that where an emergency makes
18 prior resident involvement impossible the Department may make a
19 temporary placement until a final placement can be arranged.
20 Residents may choose their final alternative placement and
21 shall be given assistance in transferring to such place. No
22 resident may be forced to remain in a temporary or permanent
23 placement. Where the Department makes or participates in making
24 the relocation decision, consideration shall be given to

1 proximity to the resident's relatives and friends. The resident
2 shall be allowed 3 visits to potential alternative placements
3 prior to removal, except where medically contraindicated or
4 where the need for immediate transfer or discharge requires
5 reduction in the number of visits.

6 Section 3-418. Transfer or discharge plans. The Department
7 shall prepare resident transfer or discharge plans to assure
8 safe and orderly removals and protect residents' health,
9 safety, welfare and rights. In nonemergencies, and where
10 possible in emergencies, the Department shall design and
11 implement such plans in advance of transfer or discharge.

12 Section 3-419. Relocation teams. The Department may place
13 relocation teams in any facility from which residents are being
14 discharged or transferred for any reason, for the purpose of
15 implementing transfer or discharge plans.

16 Section 3-420. Transfer or discharge by Department;
17 notice. In any transfer or discharge conducted under Sections
18 3-415 through 3-418 the Department shall do the following:

19 (a) Provide written notice to the facility prior to the
20 transfer or discharge. The notice shall state the basis for the
21 order of transfer or discharge and shall inform the facility of
22 its right to an informal conference prior to transfer or
23 discharge under this Section, and its right to a subsequent

1 hearing under Section 3-422. If a facility desires to contest a
2 nonemergency transfer or discharge, prior to transfer or
3 discharge it shall, within 4 working days after receipt of the
4 notice, send a written request for an informal conference to
5 the Department. The Department shall, within 4 working days
6 from the receipt of the request, hold an informal conference in
7 the county in which the facility is located. Following this
8 conference, the Department may affirm, modify or overrule its
9 previous decision. Except in an emergency, transfer or
10 discharge may not begin until the period for requesting a
11 conference has passed or, if a conference is requested, until
12 after a conference has been held.

13 (b) Provide written notice to any resident to be removed,
14 to the resident's representative, if any, and to a member of
15 the resident's family, where practicable, prior to the removal.
16 The notice shall state the reason for which transfer or
17 discharge is ordered and shall inform the resident of the
18 resident's right to challenge the transfer or discharge under
19 Section 3-422. The Department shall hold an informal conference
20 with the resident or the resident's representative prior to
21 transfer or discharge at which the resident or the
22 representative may present any objections to the proposed
23 transfer or discharge plan or alternative placement.

24 Section 3-421. Notice of emergency. In any transfer or
25 discharge conducted under subsection (e) of Section 3-415, the

1 Department shall notify the facility and any resident to be
2 removed that an emergency has been found to exist and removal
3 has been ordered, and shall involve the residents in removal
4 planning if possible. Following emergency removal, the
5 Department shall provide written notice to the facility, to the
6 resident, to the resident's representative, if any, and to a
7 member of the resident's family, where practicable, of the
8 basis for the finding that an emergency existed and of the
9 right to challenge removal under Section 3-422.

10 Section 3-422. Hearing to challenge transfer or discharge.
11 Within 10 days following transfer or discharge, the facility or
12 any resident transferred or discharged may send a written
13 request to the Department for a hearing under Section 3-703 to
14 challenge the transfer or discharge. The Department shall hold
15 the hearing within 30 days of receipt of the request. The
16 hearing shall be held at the facility from which the resident
17 is being transferred or discharged, unless the resident or
18 resident's representative, requests an alternative hearing
19 site. If the facility prevails, it may file a claim against the
20 State under the Court of Claims Act for payments lost less
21 expenses saved as a result of the transfer or discharge. No
22 resident transferred or discharged may be held liable for the
23 charge for care which would have been made had the resident
24 remained in the facility. If a resident prevails, the resident
25 may file a claim against the State under the Court of Claims

1 Act for any excess expenses directly caused by the order to
2 transfer or discharge. The Department shall assist the resident
3 in returning to the facility if assistance is requested.

4 Section 3-423. Closure of facility; notice. Any owner of a
5 facility licensed under this Act shall give 90 days' notice
6 prior to voluntarily closing a facility or closing any part of
7 a facility, or prior to closing any part of a facility if
8 closing such part will require the transfer or discharge of
9 more than 10% of the residents. Such notice shall be given to
10 the Department, to any resident who must be transferred or
11 discharged, to the resident's representative, and to a member
12 of the resident's family, where practicable. Notice shall state
13 the proposed date of closing and the reason for closing. The
14 facility shall offer to assist the resident in securing an
15 alternative placement and shall advise the resident on
16 available alternatives. Where the resident is unable to choose
17 an alternate placement and is not under guardianship, the
18 Department shall be notified of the need for relocation
19 assistance. The facility shall comply with all applicable laws
20 and regulations until the date of closing, including those
21 related to transfer or discharge of residents. The Department
22 may place a relocation team in the facility as provided under
23 Section 3-419.

24

PART 5. MONITORS AND RECEIVERSHIP

1 Section 3-501. Monitor or receiver for facility; grounds.
2 The Department may place an employee or agent to serve as a
3 monitor in a facility or may petition the circuit court for
4 appointment of a receiver for a facility, or both, when any of
5 the following conditions exist:

6 (a) The facility is operating without a license;

7 (b) The Department has suspended, revoked or refused to
8 renew the existing license of the facility;

9 (c) The facility is closing or has informed the Department
10 that it intends to close and adequate arrangements for
11 relocation of residents have not been made at least 30 days
12 prior to closure;

13 (d) The Department determines that an emergency exists,
14 whether or not it has initiated revocation or nonrenewal
15 procedures, if because of the unwillingness or inability of the
16 licensee to remedy the emergency the Department believes a
17 monitor or receiver is necessary;

18 (e) The Department is notified that the facility is
19 terminated or will not be renewed for participation in the
20 federal reimbursement program under either Title XVIII or Title
21 XIX of the Social Security Act. As used in subsection (d) and
22 Section 3-503, "emergency" means a threat to the health, safety
23 or welfare of a resident that the facility is unwilling or
24 unable to correct;

25 (f) The facility has been designated a distressed facility

1 by the Department and does not have a consultant employed
2 pursuant to subsection (f) of Section 3-304.2 of this Act and
3 an acceptable plan of improvement, or the Department has reason
4 to believe the facility is not complying with the plan of
5 improvement. Nothing in this paragraph (f) shall preclude the
6 Department from placing a monitor in a facility if otherwise
7 justified by law; or

8 (g) At the discretion of the Department when a review of
9 facility compliance history, incident reports, or reports of
10 financial problems raises a concern that a threat to resident
11 health, safety, or welfare exists.

12 Section 3-502. Placement of monitor by Department. In any
13 situation described in Section 3-501, the Department may place
14 a qualified person to act as monitor in the facility. The
15 monitor shall observe operation of the facility, assist the
16 facility by advising it on how to comply with the State
17 regulations, and shall report periodically to the Department on
18 the operation of the facility. Once a monitor has been placed,
19 the Department may retain the monitor until it is satisfied
20 that the basis for the placement is resolved and the threat to
21 the health, safety, or welfare of a resident is not likely to
22 recur.

23 Section 3-503. Emergency; petition for receiver. Where a
24 resident, a resident's representative or a resident's next of

1 kin believes that an emergency exists each of them,
2 collectively or separately, may file a verified petition to the
3 circuit court in the county in which the facility is located
4 for an order placing the facility under the control of a
5 receiver.

6 Section 3-504. Hearing on petition for receiver; grounds
7 for appointment of receiver. The court shall hold a hearing
8 within 5 days of the filing of the petition. The petition and
9 notice of the hearing shall be served on the owner,
10 administrator or designated agent of the facility as provided
11 under the Civil Practice Law, or the petition and notice of
12 hearing shall be posted in a conspicuous place in the facility
13 not later than 3 days before the time specified for the
14 hearing, unless a different period is fixed by order of the
15 court. The court shall appoint a receiver if it finds that:

16 (a) The facility is operating without a license;

17 (b) The Department has suspended, revoked or refused to
18 renew the existing license of a facility;

19 (c) The facility is closing or has informed the Department
20 that it intends to close and adequate arrangements for
21 relocation of residents have not been made at least 30 days
22 prior to closure; or

23 (d) An emergency exists, whether or not the Department has
24 initiated revocation or nonrenewal procedures, if because of
25 the unwillingness or inability of the licensee to remedy the

1 emergency the appointment of a receiver is necessary.

2 Section 3-505. Emergency; time for hearing. If a petition
3 filed under Section 3-503 alleges that the conditions set out
4 in subsection 3-504(d) exist within a facility, the court may
5 set the matter for hearing at the earliest possible time. The
6 petitioner shall notify the licensee, administrator of the
7 facility, or registered agent of the licensee prior to the
8 hearing. Any form of written notice may be used. A receivership
9 shall not be established ex parte unless the court determines
10 that the conditions set out in subsection 3-504(d) exist in a
11 facility; that the licensee cannot be found; and that the
12 petitioner has exhausted all reasonable means of locating and
13 notifying the licensee, administrator or registered agent.

14 Section 3-506. Appointment of receiver. The court may
15 appoint any qualified person as a receiver, except it shall not
16 appoint any owner or affiliate of the facility which is in
17 receivership as its receiver. The Department shall maintain a
18 list of such persons to operate facilities which the court may
19 consider. The court shall give preference to licensed nursing
20 home administrators in appointing a receiver.

21 Section 3-507. Health, safety, and welfare of residents.
22 The receiver shall make provisions for the continued health,
23 safety and welfare of all residents of the facility.

1 Section 3-508. Receiver's powers and duties. A receiver
2 appointed under this Act:

3 (a) Shall exercise those powers and shall perform those
4 duties set out by the court.

5 (b) Shall operate the facility in such a manner as to
6 assure safety and adequate health care for the residents.

7 (c) Shall have the same rights to possession of the
8 building in which the facility is located and of all goods and
9 fixtures in the building at the time the petition for
10 receivership is filed as the owner would have had if the
11 receiver had not been appointed, and of all assets of the
12 facility. The receiver shall take such action as is reasonably
13 necessary to protect or conserve the assets or property of
14 which the receiver takes possession, or the proceeds from any
15 transfer thereof, and may use them only in the performance of
16 the powers and duties set forth in this Section and by order of
17 the court.

18 (d) May use the building, fixtures, furnishings and any
19 accompanying consumable goods in the provision of care and
20 services to residents and to any other persons receiving
21 services from the facility at the time the petition for
22 receivership was filed. The receiver shall collect payments for
23 all goods and services provided to residents or others during
24 the period of the receivership at the same rate of payment
25 charged by the owners at the time the petition for receivership

1 was filed.

2 (e) May correct or eliminate any deficiency in the
3 structure or furnishings of the facility which endangers the
4 safety or health of residents while they remain in the
5 facility, provided the total cost of correction does not exceed
6 \$3,000. The court may order expenditures for this purpose in
7 excess of \$3,000 on application from the receiver after notice
8 to the owner and hearing.

9 (f) May let contracts and hire agents and employees to
10 carry out the powers and duties of the receiver under this
11 Section.

12 (g) Except as specified in Section 3-510, shall honor all
13 leases, mortgages and secured transactions governing the
14 building in which the facility is located and all goods and
15 fixtures in the building of which the receiver has taken
16 possession, but only to the extent of payments which, in the
17 case of a rental agreement, are for the use of the property
18 during the period of the receivership, or which, in the case of
19 a purchase agreement, come due during the period of the
20 receivership.

21 (h) Shall have full power to direct and manage and to
22 discharge employees of the facility, subject to any contract
23 rights they may have. The receiver shall pay employees at the
24 same rate of compensation, including benefits, that the
25 employees would have received from the owner. Receivership does
26 not relieve the owner of any obligation to employees not

1 carried out by the receiver.

2 (i) Shall, if any resident is transferred or discharged,
3 follow the procedures set forth in Part 4 of this Article.

4 (j) Shall be entitled to and shall take possession of all
5 property or assets of residents which are in the possession of
6 a facility or its owner. The receiver shall preserve all
7 property, assets and records of residents of which the receiver
8 takes possession and shall provide for the prompt transfer of
9 the property, assets and records to the new placement of any
10 transferred resident.

11 (k) Shall report to the court on any actions he has taken
12 to bring the facility into compliance with this Act or with
13 Title XVIII or XIX of the Social Security Act that he believes
14 should be continued when the receivership is terminated in
15 order to protect the health, safety or welfare of the
16 residents.

17 Section 3-509. Payment for goods or services provided by
18 receiver.

19 (a) A person who is served with notice of an order of the
20 court appointing a receiver and of the receiver's name and
21 address shall be liable to pay the receiver for any goods or
22 services provided by the receiver after the date of the order
23 if the person would have been liable for the goods or services
24 as supplied by the owner. The receiver shall give a receipt for
25 each payment and shall keep a copy of each receipt on file. The

1 receiver shall deposit amounts received in a separate account
2 and shall use this account for all disbursements.

3 (b) The receiver may bring an action to enforce the
4 liability created by subsection (a) of this Section.

5 (c) A payment to the receiver of any sum owing to the
6 facility or its owner shall discharge any obligation to the
7 facility to the extent of the payment.

8 Section 3-510. Receiver's avoidance of obligations;
9 reasonable rental, price, or rate of interest to be paid by
10 receiver.

11 (a) A receiver may petition the court that he or she not be
12 required to honor any lease, mortgage, secured transaction or
13 other wholly or partially executory contract entered into by
14 the owner of the facility if the rent, price or rate of
15 interest required to be paid under the agreement was
16 substantially in excess of a reasonable rent, price or rate of
17 interest at the time the contract was entered into, or if any
18 material provision of the agreement was unreasonable.

19 (b) If the receiver is in possession of real estate or
20 goods subject to a lease, mortgage or security interest which
21 the receiver has obtained a court order to avoid under
22 subsection (a) of this Section, and if the real estate or goods
23 are necessary for the continued operation of the facility under
24 this Section, the receiver may apply to the court to set a
25 reasonable rental, price or rate of interest to be paid by the

1 receiver during the duration of the receivership. The court
2 shall hold a hearing on the application within 15 days. The
3 receiver shall send notice of the application to any known
4 persons who own the property involved at least 10 days prior to
5 the hearing. Payment by the receiver of the amount determined
6 by the court to be reasonable is a defense to any action
7 against the receiver for payment or for possession of the goods
8 or real estate subject to the lease, security interest or
9 mortgage involved by any person who received such notice, but
10 the payment does not relieve the owner of the facility of any
11 liability for the difference between the amount paid by the
12 receiver and the amount due under the original lease, security
13 interest or mortgage involved.

14 Section 3-511. Insufficient funds collected; reimbursement
15 of receiver by Department. If funds collected under Sections
16 3-508 and 3-509 are insufficient to meet the expenses of
17 performing the powers and duties conferred on the receiver, or
18 if there are insufficient funds on hand to meet those expenses,
19 the Department may reimburse the receiver for those expenses
20 from funds appropriated for its ordinary and contingent
21 expenses by the General Assembly after funds contained in the
22 Long Term Care Monitor/Receiver Fund have been exhausted.

23 Section 3-512. Receiver's compensation. The court shall
24 set the compensation of the receiver, which will be considered

1 a necessary expense of a receivership under Section 3-516.

2 Section 3-513. Action against receiver.

3 (a) In any action or special proceeding brought against a
4 receiver in the receiver's official capacity for acts committed
5 while carrying out powers and duties under this Article, the
6 receiver shall be considered a public employee under the Local
7 Governmental and Governmental Employees Tort Immunity Act, as
8 now or hereafter amended.

9 (b) A receiver may be held liable in a personal capacity
10 only for the receiver's own gross negligence, intentional acts
11 or breach of fiduciary duty.

12 (c) The court may require a receiver to post a bond.

13 Section 3-514. License to facility in receivership. Other
14 provisions of this Act notwithstanding, the Department may
15 issue a license to a facility placed in receivership. The
16 duration of a license issued under this Section is limited to
17 the duration of the receivership.

18 Section 3-515. Termination of receivership. The court may
19 terminate a receivership:

20 (a) If the time period specified in the order appointing
21 the receiver elapses and is not extended;

22 (b) If the court determines that the receivership is no
23 longer necessary because the conditions which gave rise to the

1 receivership no longer exist; or the Department grants the
2 facility a new license, whether the structure of the facility,
3 the right to operate the facility, or the land on which it is
4 located is under the same or different ownership; or

5 (c) If all of the residents in the facility have been
6 transferred or discharged. Before terminating a receivership,
7 the court may order the Department to require any licensee to
8 comply with the recommendations of the receiver made under
9 subsection (k) of Section 3-508. A licensee may petition the
10 court to be relieved of this requirement.

11 Section 3-516. Accounting by receiver; Department's lien.

12 (a) Within 30 days after termination, the receiver shall
13 give the court a complete accounting of all property of which
14 the receiver has taken possession, of all funds collected, and
15 of the expenses of the receivership.

16 (b) If the operating funds collected by the receiver under
17 Sections 3-508 and 3-509 exceed the reasonable expenses of the
18 receivership, the court shall order payment of the surplus to
19 the owner, after reimbursement of funds drawn from the
20 contingency fund under Section 3-511. If the operating funds
21 are insufficient to cover the reasonable expenses of the
22 receivership, the owner shall be liable for the deficiency.
23 Payment recovered from the owner shall be used to reimburse the
24 contingency fund for amounts drawn by the receiver under
25 Section 3-511.

1 (c) The Department shall have a lien for any payment made
2 under Section 3-511 upon any beneficial interest, direct or
3 indirect, of any owner in the following property:

4 (1) The building in which the facility is located;

5 (2) Any fixtures, equipment or goods used in the
6 operation of the facility;

7 (3) The land on which the facility is located; or

8 (4) The proceeds from any conveyance of property
9 described in subparagraphs (1), (2) or (3) above, made by
10 the owner within one year prior to the filing of the
11 petition for receivership.

12 (d) The lien provided by this Section is prior to any lien
13 or other interest which originates subsequent to the filing of
14 a petition for receivership under this Article, except for a
15 construction or mechanic's lien arising out of work performed
16 with the express consent of the receiver.

17 (e) The receiver shall, within 60 days after termination of
18 the receivership, file a notice of any lien created under this
19 Section. If the lien is on real property, the notice shall be
20 filed with the recorder. If the lien is on personal property,
21 the lien shall be filed with the Secretary of State. The notice
22 shall specify the name of the person against whom the lien is
23 claimed, the name of the receiver, the dates of the petition
24 for receivership and the termination of receivership, a
25 description of the property involved and the amount claimed. No
26 lien shall exist under this Article against any person, on any

1 property, or for any amount not specified in the notice filed
2 under this subsection (e).

3 Section 3-517. Civil and criminal liability during
4 receivership. Nothing in this Act shall be deemed to relieve
5 any owner, administrator or employee of a facility placed in
6 receivership of any civil or criminal liability incurred, or
7 any duty imposed by law, by reason of acts or omissions of the
8 owner, administrator, or employee prior to the appointment of a
9 receiver; nor shall anything contained in this Act be construed
10 to suspend during the receivership any obligation of the owner,
11 administrator, or employee for payment of taxes or other
12 operating and maintenance expenses of the facility nor of the
13 owner, administrator, employee or any other person for the
14 payment of mortgages or liens. The owner shall retain the right
15 to sell or mortgage any facility under receivership, subject to
16 approval of the court which ordered the receivership.

17 PART 6. DUTIES

18 Section 3-601. Liability for injury to resident. The owner
19 and licensee are liable to a resident for any intentional or
20 negligent act or omission of their agents or employees which
21 injures the resident.

22 Section 3-602. Damages for violation of resident's rights.

1 The licensee shall pay the actual damages and costs and
2 attorney's fees to a facility resident whose rights, as
3 specified in Part 1 of Article II of this Act, are violated.

4 Section 3-603. Action by resident. A resident may maintain
5 an action under this Act for any other type of relief,
6 including injunctive and declaratory relief, permitted by law.

7 Section 3-604. Class action; remedies cumulative. Any
8 damages recoverable under Sections 3-601 through 3-607,
9 including minimum damages as provided by these Sections, may be
10 recovered in any action which a court may authorize to be
11 brought as a class action pursuant to the Civil Practice Law.
12 The remedies provided in Sections 3-601 through 3-607, are in
13 addition to and cumulative with any other legal remedies
14 available to a resident. Exhaustion of any available
15 administrative remedies shall not be required prior to
16 commencement of suit hereunder.

17 Section 3-605. Amount of damages; no effect on medical
18 assistance eligibility. The amount of damages recovered by a
19 resident in an action brought under Sections 3-601 through
20 3-607 shall be exempt for purposes of determining initial or
21 continuing eligibility for medical assistance under the
22 Illinois Public Aid Code, as now or hereafter amended, and
23 shall neither be taken into consideration nor required to be

1 applied toward the payment or partial payment of the cost of
2 medical care or services available under the Illinois Public
3 Aid Code.

4 Section 3-606. Waiver of resident's right to bring action
5 prohibited. Any waiver by a resident or his or her legal
6 representative of the right to commence an action under
7 Sections 3-601 through 3-607, whether oral or in writing, shall
8 be null and void, and without legal force or effect.

9 Section 3-607. Trial by jury. Any party to an action
10 brought under Sections 3-601 through 3-607 shall be entitled to
11 a trial by jury and any waiver of the right to a trial by a
12 jury, whether oral or in writing, prior to the commencement of
13 an action, shall be null and void, and without legal force or
14 effect.

15 Section 3-608. Retaliation against resident prohibited. A
16 licensee or its agents or employees shall not transfer,
17 discharge, evict, harass, dismiss, or retaliate against a
18 resident, a resident's representative, or an employee or agent
19 who makes a report under Section 2-107, brings or testifies in
20 an action under Sections 3-601 through 3-607, or files a
21 complaint under Section 3-702, because of the report,
22 testimony, or complaint.

1 Section 3-609. Immunity from liability for making report.
2 Any person, institution or agency, under this Act,
3 participating in good faith in the making of a report, or in
4 the investigation of such a report shall not be deemed to have
5 violated any privileged communication and shall have immunity
6 from any liability, civil, criminal or any other proceedings,
7 civil or criminal as a consequence of making such report. The
8 good faith of any persons required to report, or permitted to
9 report, cases of suspected resident abuse or neglect under this
10 Act, shall be presumed.

11 Section 3-610. Duty to report violations.

12 (a) A facility employee or agent who becomes aware of abuse
13 or neglect of a resident prohibited by Section 2-107 shall
14 immediately report the matter to the Department and to the
15 facility administrator. A facility administrator who becomes
16 aware of abuse or neglect of a resident prohibited by Section
17 2-107 shall immediately report the matter by telephone and in
18 writing to the resident's representative, and to the
19 Department. Any person may report a violation of Section 2-107
20 to the Department.

21 (b) A facility employee or agent who becomes aware of
22 another facility employee or agent's theft or misappropriation
23 of a resident's property must immediately report the matter to
24 the facility administrator. A facility administrator who
25 becomes aware of a facility employee or agent's theft or

1 misappropriation of a resident's property must immediately
2 report the matter by telephone and in writing to the resident's
3 representative, to the Department, and to the local law
4 enforcement agency. Neither a licensee nor its employees or
5 agents may dismiss or otherwise retaliate against a facility
6 employee or agent who reports the theft or misappropriation of
7 a resident's property under this subsection.

8 Section 3-611. Employee as perpetrator of abuse. When an
9 investigation of a report of suspected abuse of a recipient
10 indicates, based upon credible evidence, that an employee of a
11 facility is the perpetrator of the abuse, that employee shall
12 immediately be barred from any further contact with residents
13 of the facility, pending the outcome of any further
14 investigation, prosecution or disciplinary action against the
15 employee.

16 Section 3-612. Resident as perpetrator of abuse. When an
17 investigation of a report of suspected abuse of a resident
18 indicates, based upon credible evidence, that another resident
19 of the facility is the perpetrator of the abuse, that
20 resident's condition shall be immediately evaluated to
21 determine the most suitable therapy and placement for the
22 resident, considering the safety of that resident as well as
23 the safety of other residents and employees of the facility.

1 PART 7. COMPLAINT, HEARING, AND APPEAL

2 Section 3-701. Public nuisance; action for injunction. The
3 operation or maintenance of a facility in violation of this
4 Act, or of the rules and regulations promulgated by the
5 Department, is declared a public nuisance inimical to the
6 public welfare. The Director in the name of the people of the
7 State, through the Attorney General, or the State's Attorney of
8 the county in which the facility is located, or in respect to
9 any city, village or incorporated town which provides for the
10 licensing and regulation of any or all such facilities, the
11 Director or the mayor or president of the Board of Trustees, as
12 the case may require, of the city, village or incorporated
13 town, in the name of the people of the State, through the
14 Attorney General or State's attorney of the county in which the
15 facility is located, may, in addition to other remedies herein
16 provided, bring action for an injunction to restrain such
17 violation or to enjoin the future operation or maintenance of
18 any such facility.

19 Section 3-702. Request for investigation of violation.

20 (a) A person who believes that this Act or a rule
21 promulgated under this Act may have been violated may request
22 an investigation. The request may be submitted to the
23 Department in writing, by telephone, by electronic means, or by
24 personal visit. An oral complaint shall be reduced to writing

1 by the Department. The Department shall make available, through
2 its website and upon request, information regarding the oral
3 and phone intake processes and the list of questions that will
4 be asked of the complainant. The Department shall request
5 information identifying the complainant, including the name,
6 address and telephone number, to help enable appropriate follow
7 up. The Department shall act on such complaints via on-site
8 visits or other methods deemed appropriate to handle the
9 complaints with or without such identifying information, as
10 otherwise provided under this Section. The complainant shall be
11 informed that compliance with such request is not required to
12 satisfy the procedures for filing a complaint under this Act.
13 The Department must notify complainants that complaints with
14 less information provided are far more difficult to respond to
15 and investigate.

16 (b) The substance of the complaint shall be provided in
17 writing to the licensee, owner or administrator no earlier than
18 at the commencement of an on-site inspection of the facility
19 which takes place pursuant to the complaint.

20 (c) The Department shall not disclose the name of the
21 complainant unless the complainant consents in writing to the
22 disclosure or the investigation results in a judicial
23 proceeding, or unless disclosure is essential to the
24 investigation. The complainant shall be given the opportunity
25 to withdraw the complaint before disclosure. Upon the request
26 of the complainant, the Department may permit the complainant

1 or a representative of the complainant to accompany the person
2 making the on-site inspection of the facility.

3 (d) Upon receipt of a complaint, the Department shall
4 determine whether this Act or a rule promulgated under this Act
5 has been or is being violated. The Department shall investigate
6 all complaints alleging abuse or neglect within 7 days after
7 the receipt of the complaint except that complaints of abuse or
8 neglect which indicate that a resident's life or safety is in
9 imminent danger shall be investigated within 24 hours after
10 receipt of the complaint. All other complaints shall be
11 investigated within 30 days after the receipt of the complaint.
12 The Department employees investigating a complaint shall
13 conduct a brief, informal exit conference with the facility to
14 alert its administration of any suspected serious deficiency
15 that poses a direct threat to the health, safety or welfare of
16 a resident to enable an immediate correction for the
17 alleviation or elimination of such threat. Such information and
18 findings discussed in the brief exit conference shall become a
19 part of the investigating record but shall not in any way
20 constitute an official or final notice of violation as provided
21 under Section 3-301. All complaints shall be classified as "an
22 invalid report", "a valid report", or "an undetermined report".
23 For any complaint classified as "a valid report", the
24 Department must determine within 30 working days if any rule or
25 provision of this Act has been or is being violated.

26 (d-1) The Department shall, whenever possible, combine an

1 on site investigation of a complaint in a facility with other
2 inspections in order to avoid duplication of inspections.

3 (e) In all cases, the Department shall inform the
4 complainant of its findings within 10 days of its determination
5 unless otherwise indicated by the complainant, and the
6 complainant may direct the Department to send a copy of such
7 findings to another person. The Department's findings may
8 include comments or documentation provided by either the
9 complainant or the licensee pertaining to the complaint. The
10 Department shall also notify the facility of such findings
11 within 10 days of the determination, but the name of the
12 complainant or residents shall not be disclosed in this notice
13 to the facility. The notice of such findings shall include a
14 copy of the written determination; the correction order, if
15 any; the warning notice, if any; the inspection report; or the
16 State licensure form on which the violation is listed.

17 (f) A written determination, correction order, or warning
18 notice concerning a complaint, together with the facility's
19 response, shall be available for public inspection, but the
20 name of the complainant or resident shall not be disclosed
21 without his or her consent.

22 (g) A complainant who is dissatisfied with the
23 determination or investigation by the Department may request a
24 hearing under Section 3-703. The facility shall be given notice
25 of any such hearing and may participate in the hearing as a
26 party. If a facility requests a hearing under Section 3-703

1 which concerns a matter covered by a complaint, the complainant
2 shall be given notice and may participate in the hearing as a
3 party. A request for a hearing by either a complainant or a
4 facility shall be submitted in writing to the Department within
5 30 days after the mailing of the Department's findings as
6 described in subsection (e) of this Section. Upon receipt of
7 the request the Department shall conduct a hearing as provided
8 under Section 3-703.

9 (g-5) The Department shall conduct an annual review and
10 make a report concerning the complaint process that includes
11 the number of complaints received, the breakdown of anonymous
12 and non-anonymous complaints and whether the complaints were
13 substantiated or not, the total number of substantiated
14 complaints, and any other complaint information requested by
15 the DD Facility Advisory Board. This report shall be provided
16 to the DD Facility Advisory Board. The DD Facility Advisory
17 Board shall review the report and suggest any changes deemed
18 necessary to the Department for review and action, including
19 how to investigate and substantiate anonymous complaints.

20 (h) Any person who knowingly transmits a false report to
21 the Department commits the offense of disorderly conduct under
22 subsection (a) (8) of Section 26-1 of the Criminal Code of 2012.

23 Section 3-703. Hearing to contest decision; applicable
24 provisions. Any person requesting a hearing pursuant to
25 Sections 2-110, 3-115, 3-118, 3-119, 3-119.1, 3-301, 3-303,

1 3-309, 3-410, 3-422 or 3-702 to contest a decision rendered in
2 a particular case may have such decision reviewed in accordance
3 with Sections 3-703 through 3-712.

4 Section 3-704. Hearing; notice; commencement. A request
5 for a hearing by aggrieved persons shall be taken to the
6 Department as follows:

7 (a) Upon the receipt of a request in writing for a hearing,
8 the Director or a person designated in writing by the Director
9 to act as a hearing officer shall conduct a hearing to review
10 the decision.

11 (b) Before the hearing is held, notice of the hearing shall
12 be sent by the Department to the person making the request for
13 the hearing and to the person making the decision which is
14 being reviewed. In the notice the Department shall specify the
15 date, time and place of the hearing which shall be held not
16 less than 10 days after the notice is mailed or delivered. The
17 notice shall designate the decision being reviewed. The notice
18 may be served by delivering it personally to the parties or
19 their representatives or by mailing it by certified mail to the
20 parties' addresses.

21 (c) The Department shall commence the hearing within 30
22 days of the receipt of request for hearing. The hearing shall
23 proceed as expeditiously as practicable, but in all cases shall
24 conclude within 90 days of commencement.

1 Section 3-705. Subpoenas. The Director or hearing officer
2 may compel by subpoena or subpoena duces tecum the attendance
3 and testimony of witnesses and the production of books and
4 papers, and administer oaths to witnesses.

5 Section 3-706. Appearance at hearing; depositions; record.
6 The Director or hearing officer shall permit any party to
7 appear in person and to be represented by counsel at the
8 hearing, at which time the applicant or licensee shall be
9 afforded an opportunity to present all relevant matter in
10 support of his position. In the event of the inability of any
11 party or the Department to procure the attendance of witnesses
12 to give testimony or produce books and papers, any party or the
13 Department may take the deposition of witnesses in accordance
14 with the provisions of the laws of this State. All testimony
15 taken at a hearing shall be reduced to writing, and all such
16 testimony and other evidence introduced at the hearing shall be
17 a part of the record of the hearing.

18 Section 3-707. Findings of fact; decision. The Director or
19 hearing officer shall make findings of fact in such hearing,
20 and the Director shall render his or her decision within 30
21 days after the termination of the hearing, unless additional
22 time not to exceed 90 days is required by him or her for a
23 proper disposition of the matter. When the hearing has been
24 conducted by a hearing officer, the Director shall review the

1 record and findings of fact before rendering a decision. All
2 decisions rendered by the Director shall be binding upon and
3 complied with by the Department, the facility or the persons
4 involved in the hearing, as appropriate to each case.

5 Section 3-708. Rules of evidence and procedure. The
6 Director or hearing officer shall not be bound by common law or
7 statutory rules of evidence, or by technical or formal rules of
8 procedure, but shall conduct hearings in the manner best
9 calculated to result in substantial justice.

10 Section 3-709. Service of subpoenas; witness fees. All
11 subpoenas issued by the Director or hearing officer may be
12 served as provided for in civil actions. The fees of witnesses
13 for attendance and travel shall be the same as the fees for
14 witnesses before the circuit court and shall be paid by the
15 party to such proceeding at whose request the subpoena is
16 issued. If such subpoena is issued at the request of the
17 Department or by a person proceeding in forma pauperis the
18 witness fee shall be paid by the Department as an
19 administrative expense.

20 Section 3-710. Compelling obedience to subpoena. In cases
21 of refusal of a witness to attend or testify or to produce
22 books or papers, concerning any matter upon which he might be
23 lawfully examined, the circuit court of the county wherein the

1 hearing is held, upon application of any party to the
2 proceeding, may compel obedience by a proceeding for contempt
3 as in cases of a like refusal to obey a similar order of the
4 court.

5 Section 3-711. Record of hearing; transcript. The
6 Department, at its expense, shall provide a stenographer to
7 take the testimony, or otherwise record the testimony, and
8 preserve a record of all proceedings under this Section. The
9 notice of hearing, the complaint and all other documents in the
10 nature of pleadings and written motions filed in the
11 proceedings, the transcript of testimony, and the findings and
12 decision shall be the record of the proceedings. The Department
13 shall furnish a transcript of such record to any person
14 interested in such hearing upon payment therefor of 70 cents
15 per page for each original transcript and 25 cents per page for
16 each certified copy thereof. However, the charge for any part
17 of such transcript ordered and paid for previous to the writing
18 of the original record shall be 25 cents per page.

19 Section 3-712. Certification of record; fee. The
20 Department shall not be required to certify any record or file
21 any answer or otherwise appear in any proceeding for judicial
22 review under Section 3-713 of this Act unless there is filed
23 with the complaint a receipt from the Department acknowledging
24 payment of the costs of furnishing and certifying the record,

1 which cost shall be computed at the rate of 95 cents per page
2 of such record. Failure on the part of the plaintiff to file
3 such receipt in Court shall be grounds for dismissal of the
4 action; provided, however, that persons proceeding in forma
5 pauperis with the approval of the circuit court shall not be
6 required to pay these fees.

7 Section 3-713. Judicial review; stay of enforcement of
8 Department's decision.

9 (a) Final administrative decisions after hearing shall be
10 subject to judicial review exclusively as provided in the
11 Administrative Review Law, as now or hereafter amended, except
12 that any petition for judicial review of Department action
13 under this Act shall be filed within 15 days after receipt of
14 notice of the final agency determination. The term
15 "administrative decision" has the meaning ascribed to it in
16 Section 3-101 of the Code of Civil Procedure.

17 (b) The court may stay enforcement of the Department's
18 final decision or toll the continuing accrual of a penalty
19 under Section 3-305 if a showing is made that there is a
20 substantial probability that the party seeking review will
21 prevail on the merits and will suffer irreparable harm if a
22 stay is not granted, and that the facility will meet the
23 requirements of this Act and the rules promulgated under this
24 Act during such stay. Where a stay is granted the court may
25 impose such conditions on the granting of the stay as may be

1 necessary to safeguard the lives, health, rights, safety and
2 welfare of residents, and to assure compliance by the facility
3 with the requirements of this Act, including an order for
4 transfer or discharge of residents under Sections 3-401 through
5 3-423 or for appointment of a receiver under Sections 3-501
6 through 3-517.

7 (c) Actions brought under this Act shall be set for trial
8 at the earliest possible date and shall take precedence on the
9 court calendar over all other cases except matters to which
10 equal or superior precedence is specifically granted by law.

11 Section 3-714. Remedies cumulative. The remedies provided
12 by this Act are cumulative and shall not be construed as
13 restricting any party from seeking any remedy, provisional or
14 otherwise, provided by law for the benefit of the party, from
15 obtaining additional relief based upon the same facts.

16 PART 8. MISCELLANEOUS PROVISIONS

17 Section 3-801. Rules and regulations. The Department shall
18 have the power to adopt rules and regulations to carry out the
19 purpose of this Act.

20 Section 3-801.1. Access to records of resident with
21 developmental disabilities. Notwithstanding the other
22 provisions of this Act to the contrary, the agency designated

1 by the Governor under Section 1 of "An Act in relation to the
2 protection and advocacy of the rights of persons with
3 developmental disabilities, and amending Acts therein named",
4 enacted by the 84th General Assembly, shall have access to the
5 records of a person with developmental disabilities who resides
6 in a facility, subject to the limitations of this Act. The
7 agency shall also have access for the purpose of inspection and
8 copying, to the records of a person with developmental
9 disabilities who resides in any such facility if (1) a
10 complaint is received by such agency from or on behalf of the
11 person with a developmental disability, and (2) such person
12 does not have a guardian or the State or the designee of the
13 State is the guardian of such person. The designated agency
14 shall provide written notice to the person with developmental
15 disabilities and the State guardian of the nature of the
16 complaint based upon which the designated agency has gained
17 access to the records. No record or the contents of any record
18 shall be redisclosed by the designated agency unless the person
19 with developmental disabilities and the State guardian are
20 provided 7 days' advance written notice, except in emergency
21 situations, of the designated agency's intent to redisclose
22 such record, during which time the person with developmental
23 disabilities or the State guardian may seek to judicially
24 enjoin the designated agency's redisclosure of such record on
25 the grounds that such redisclosure is contrary to the interests
26 of the person with developmental disabilities. If a person with

1 developmental disabilities resides in such a facility and has a
2 guardian other than the State or the designee of the State, the
3 facility director shall disclose the guardian's name, address,
4 and telephone number to the designated agency at the agency's
5 request.

6 Upon request, the designated agency shall be entitled to
7 inspect and copy any records or other materials which may
8 further the agency's investigation of problems affecting
9 numbers of persons with developmental disabilities. When
10 required by law any personally identifiable information of
11 persons with a developmental disability shall be removed from
12 the records. However, the designated agency may not inspect or
13 copy any records or other materials when the removal of
14 personally identifiable information imposes an unreasonable
15 burden on the facility. For the purposes of this Section,
16 "developmental disability" means a severe, chronic disability
17 of a person which:

18 (A) is attributable to a mental or physical impairment
19 or combination of mental and physical impairments;

20 (B) is manifested before the person attains age 22;

21 (C) is likely to continue indefinitely;

22 (D) results in substantial functional limitations in 3
23 or more of the following areas of major life activity: (i)
24 self care, (ii) receptive and expressive language, (iii)
25 learning, (iv) mobility, (v) self direction, (vi) capacity
26 for independent living, and (vii) economic self

1 sufficiency; and

2 (E) reflects the person's need for combination and
3 sequence of special, interdisciplinary or generic care,
4 treatment or other services which are of lifelong or
5 extended duration and are individually planned and
6 coordinated.

7 Section 3-801.05. Rules adopted under prior law. The
8 Department shall adopt rules to implement the changes
9 concerning licensure of facilities under this Act instead of
10 under the ID/DD Community Care Act. Until the Department adopts
11 those rules, the rules adopted under the ID/DD Community Care
12 Act that apply to long-term care for under age 22 facilities
13 subject to licensure under the ID/DD Community Care Act shall
14 apply to medically complex for the developmentally disabled
15 facilities under this Act.

16 Section 3-802. Illinois Administrative Procedure Act. The
17 provisions of the Illinois Administrative Procedure Act are
18 hereby expressly adopted and shall apply to all administrative
19 rules and procedures of the Department under this Act.

20 Section 3-803. Treatment by prayer or spiritual means.
21 Nothing in this Act or the rules and regulations adopted
22 pursuant thereto shall be construed as authorizing the medical
23 supervision, regulation, or control of the remedial care or

1 treatment of residents in any facility conducted for those who
2 rely upon treatment by prayer or spiritual means in accordance
3 with the creed or tenets of any well recognized church or
4 religious denomination.

5 Section 3-804. Report to General Assembly. The Department
6 shall report to the General Assembly by April 1 of each year
7 upon the performance of its inspection, survey and evaluation
8 duties under this Act, including the number and needs of the
9 Department personnel engaged in such activities. The report
10 shall also describe the Department's actions in enforcement of
11 this Act, including the number and needs of personnel so
12 engaged. The report shall also include the number of valid and
13 invalid complaints filed with the Department within the last
14 calendar year.

15 Section 3-808. Protocol for sexual assault victims; MC/DD
16 facility. The Department shall develop a protocol for the care
17 and treatment of residents who have been sexually assaulted in
18 a MC/DD facility or elsewhere.

19 Section 3-808.5. Facility fraud, abuse, or neglect
20 prevention and reporting.

21 (a) A facility licensed to provide care to 17 or more
22 residents that receives Medicaid funding shall prominently
23 display in its lobby, in its dining areas, and on each floor of

1 the facility information approved by the Illinois Medicaid
2 Fraud Control Unit on how to report fraud, abuse, and neglect.
3 A facility licensed to provide care to fewer than 17 residents
4 that receives Medicaid funding shall prominently display in the
5 facility so as to be easily seen by all residents, visitors,
6 and employees information approved by the Illinois Medicaid
7 Fraud Control Unit on how to report fraud, abuse, and neglect.
8 In addition, information regarding the reporting of fraud,
9 abuse, and neglect shall be provided to each resident at the
10 time of admission and to the resident's guardian or resident's
11 representative.

12 (b) Any owner or licensee of a facility licensed under this
13 Act shall be responsible for the collection and maintenance of
14 any and all records required to be maintained under this
15 Section and any other applicable provisions of this Act and as
16 a provider under the Illinois Public Aid Code, and shall be
17 responsible for compliance with all of the disclosure
18 requirements under this Section. All books and records and
19 other papers and documents that are required to be kept, and
20 all records showing compliance with all of the disclosure
21 requirements to be made pursuant to this Section, shall be kept
22 by the licensee and available at the facility and shall, at all
23 times during business hours, be subject to inspection by any
24 law enforcement or health oversight agency or its duly
25 authorized agents or employees.

26 (c) Any report of abuse and neglect of residents made by

1 any individual in whatever manner, including, but not limited
2 to, reports made under Sections 2-107 and 3-610 of this Act, or
3 as provided under the Abused and Neglected Long Term Care
4 Facility Residents Reporting Act, that is made to an
5 administrator, a director of nursing, or any other person with
6 management responsibility at a facility must be disclosed to
7 the owners and licensee of the facility within 24 hours of the
8 report. The owners and licensee of a facility shall maintain
9 all records necessary to show compliance with this disclosure
10 requirement.

11 (d) Any person with an ownership interest in a facility
12 licensed by the Department must, within 30 days after the
13 effective date of this Act, disclose the existence of any
14 ownership interest in any vendor who does business with the
15 facility. The disclosures required by this subsection (d) shall
16 be made in the form and manner prescribed by the Department.
17 Licensed facilities that receive Medicaid funding shall submit
18 a copy of the disclosures required by this subsection (d) to
19 the Illinois Medicaid Fraud Control Unit. The owners and
20 licensee of a facility shall maintain all records necessary to
21 show compliance with this disclosure requirement.

22 (e) Notwithstanding the provisions of Section 3-318 of this
23 Act and in addition thereto, any person, owner, or licensee who
24 willfully fails to keep and maintain, or willfully fails to
25 produce for inspection, books and records, or willfully fails
26 to make the disclosures required by this Section, is guilty of

1 a Class A misdemeanor. A second or subsequent violation of this
2 Section shall be punishable as a Class 4 felony.

3 (f) Any owner or licensee who willfully files or willfully
4 causes to be filed a document with false information with the
5 Department, the Department of Healthcare and Family Services,
6 or the Illinois Medicaid Fraud Control Unit or any other law
7 enforcement agency is guilty of a Class A misdemeanor.

8 Section 3-810. Whistleblower protection.

9 (a) In this Section, "retaliatory action" means the
10 reprimand, discharge, suspension, demotion, denial of
11 promotion or transfer, or change in the terms and conditions of
12 employment of any employee of a facility that is taken in
13 retaliation for the employee's involvement in a protected
14 activity as set forth in paragraphs (1), (2), and (3) of
15 subsection (b) of this Section.

16 (b) A facility shall not take any retaliatory action
17 against an employee of the facility, including a nursing home
18 administrator, because the employee does any of the following:

19 (1) Discloses or threatens to disclose to a supervisor
20 or to a public body an activity, inaction, policy, or
21 practice implemented by a facility that the employee
22 reasonably believes is in violation of a law, rule, or
23 regulation.

24 (2) Provides information to or testifies before any
25 public body conducting an investigation, hearing, or

1 inquiry into any violation of a law, rule, or regulation by
2 a nursing home administrator.

3 (3) Assists or participates in a proceeding to enforce
4 the provisions of this Act.

5 (c) A violation of this Section may be established only
6 upon a finding that (1) the employee of the facility engaged in
7 conduct described in subsection (b) of this Section and (2)
8 this conduct was a contributing factor in the retaliatory
9 action alleged by the employee. There is no violation of this
10 Section, however, if the facility demonstrates by clear and
11 convincing evidence that it would have taken the same
12 unfavorable personnel action in the absence of that conduct.

13 (d) The employee of the facility may be awarded all
14 remedies necessary to make the employee whole and to prevent
15 future violations of this Section. Remedies imposed by the
16 court may include, but are not limited to, all of the
17 following:

18 (1) Reinstatement of the employee to either the same
19 position held before the retaliatory action or to an
20 equivalent position.

21 (2) Two times the amount of back pay.

22 (3) Interest on the back pay.

23 (4) Reinstatement of full fringe benefits and
24 seniority rights.

25 (5) Payment of reasonable costs and attorney's fees.

26 (e) Nothing in this Section shall be deemed to diminish the

1 rights, privileges, or remedies of an employee of a facility
2 under any other federal or State law, rule, or regulation or
3 under any employment contract.

4 Section 5. The Election Code is amended by changing
5 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,
6 19-12.1, and 19-12.2 as follows:

7 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

8 Sec. 3-3. Every honorably discharged soldier or sailor who
9 is an inmate of any soldiers' and sailors' home within the
10 State of Illinois, any person who is a resident of a facility
11 licensed or certified pursuant to the Nursing Home Care Act,
12 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
13 the ID/DD Community Care Act, or the MC/DD Act, or any person
14 who is a resident of a community-integrated living arrangement,
15 as defined in Section 3 of the Community-Integrated Living
16 Arrangements Licensure and Certification Act, for 30 days or
17 longer, and who is a citizen of the United States and has
18 resided in this State and in the election district 30 days next
19 preceding any election shall be entitled to vote in the
20 election district in which any such home or
21 community-integrated living arrangement in which he is an
22 inmate or resident is located, for all officers that now are or
23 hereafter may be elected by the people, and upon all questions
24 that may be submitted to the vote of the people: Provided, that

1 he shall declare upon oath, that it was his bona fide intention
2 at the time he entered said home or community-integrated living
3 arrangement to become a resident thereof.

4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 98-104, eff. 7-22-13.)

6 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

7 (Text of Section before amendment by P.A. 98-1171)

8 Sec. 4-6.3. The county clerk may establish a temporary
9 place of registration for such times and at such locations
10 within the county as the county clerk may select. However, no
11 temporary place of registration may be in operation during the
12 27 days preceding an election. Notice of the time and place of
13 registration under this Section shall be published by the
14 county clerk in a newspaper having a general circulation in the
15 county not less than 3 nor more than 15 days before the holding
16 of such registration.

17 Temporary places of registration shall be established so
18 that the areas of concentration of population or use by the
19 public are served, whether by facilities provided in places of
20 private business or in public buildings or in mobile units.
21 Areas which may be designated as temporary places of
22 registration include, but are not limited to, facilities
23 licensed or certified pursuant to the Nursing Home Care Act,
24 the Specialized Mental Health Rehabilitation Act of 2013, or
25 the ID/DD Community Care Act, Soldiers' and Sailors' Homes,

1 shopping centers, business districts, public buildings and
2 county fairs.

3 Temporary places of registration shall be available to the
4 public not less than 2 hours per year for each 1,000 population
5 or fraction thereof in the county.

6 All temporary places of registration shall be manned by
7 deputy county clerks or deputy registrars appointed pursuant to
8 Section 4-6.2.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
10 eff. 7-13-12; 98-104, eff. 7-22-13.)

11 (Text of Section after amendment by P.A. 98-1171)

12 Sec. 4-6.3. The county clerk may establish a temporary
13 place of registration for such times and at such locations
14 within the county as the county clerk may select. Notice of the
15 time and place of registration under this Section shall be
16 published by the county clerk in a newspaper having a general
17 circulation in the county not less than 3 nor more than 15 days
18 before the holding of such registration.

19 Temporary places of registration shall be established so
20 that the areas of concentration of population or use by the
21 public are served, whether by facilities provided in places of
22 private business or in public buildings or in mobile units.
23 Areas which may be designated as temporary places of
24 registration include, but are not limited to, facilities
25 licensed or certified pursuant to the Nursing Home Care Act,

1 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
2 the ID/DD Community Care Act, or the MC/DD Act, Soldiers' and
3 Sailors' Homes, shopping centers, business districts, public
4 buildings and county fairs.

5 Temporary places of registration shall be available to the
6 public not less than 2 hours per year for each 1,000 population
7 or fraction thereof in the county.

8 All temporary places of registration shall be manned by
9 deputy county clerks or deputy registrars appointed pursuant to
10 Section 4-6.2.

11 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
12 eff. 7-13-12; 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

13 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

14 (Text of Section before amendment by P.A. 98-1171)

15 Sec. 4-10. Except as herein provided, no person shall be
16 registered, unless he applies in person to a registration
17 officer, answers such relevant questions as may be asked of him
18 by the registration officer, and executes the affidavit of
19 registration. The registration officer shall require the
20 applicant to furnish two forms of identification, and except in
21 the case of a homeless individual, one of which must include
22 his or her residence address. These forms of identification
23 shall include, but not be limited to, any of the following:
24 driver's license, social security card, public aid
25 identification card, utility bill, employee or student

1 identification card, lease or contract for a residence, credit
2 card, or a civic, union or professional association membership
3 card. The registration officer shall require a homeless
4 individual to furnish evidence of his or her use of the mailing
5 address stated. This use may be demonstrated by a piece of mail
6 addressed to that individual and received at that address or by
7 a statement from a person authorizing use of the mailing
8 address. The registration officer shall require each applicant
9 for registration to read or have read to him the affidavit of
10 registration before permitting him to execute the affidavit.

11 One of the registration officers or a deputy registration
12 officer, county clerk, or clerk in the office of the county
13 clerk, shall administer to all persons who shall personally
14 apply to register the following oath or affirmation:

15 "You do solemnly swear (or affirm) that you will fully and
16 truly answer all such questions as shall be put to you touching
17 your name, place of residence, place of birth, your
18 qualifications as an elector and your right as such to register
19 and vote under the laws of the State of Illinois."

20 The registration officer shall satisfy himself that each
21 applicant for registration is qualified to register before
22 registering him. If the registration officer has reason to
23 believe that the applicant is a resident of a Soldiers' and
24 Sailors' Home or any facility which is licensed or certified
25 pursuant to the Nursing Home Care Act, the Specialized Mental
26 Health Rehabilitation Act of 2013, or the ID/DD Community Care

1 Act, the following question shall be put, "When you entered the
2 home which is your present address, was it your bona fide
3 intention to become a resident thereof?" Any voter of a
4 township, city, village or incorporated town in which such
5 applicant resides, shall be permitted to be present at the
6 place of any precinct registration and shall have the right to
7 challenge any applicant who applies to be registered.

8 In case the officer is not satisfied that the applicant is
9 qualified he shall forthwith notify such applicant in writing
10 to appear before the county clerk to complete his registration.
11 Upon the card of such applicant shall be written the word
12 "incomplete" and no such applicant shall be permitted to vote
13 unless such registration is satisfactorily completed as
14 hereinafter provided. No registration shall be taken and marked
15 as incomplete if information to complete it can be furnished on
16 the date of the original application.

17 Any person claiming to be an elector in any election
18 precinct and whose registration card is marked "Incomplete" may
19 make and sign an application in writing, under oath, to the
20 county clerk in substance in the following form:

21 "I do solemnly swear that I,, did on (insert date)
22 make application to the board of registry of the precinct
23 of the township of (or to the county clerk of county)
24 and that said board or clerk refused to complete my
25 registration as a qualified voter in said precinct. That I
26 reside in said precinct, that I intend to reside in said

1 precinct, and am a duly qualified voter of said precinct and am
2 entitled to be registered to vote in said precinct at the next
3 election.

4 (Signature of applicant)"

5 All such applications shall be presented to the county
6 clerk or to his duly authorized representative by the
7 applicant, in person between the hours of 9:00 a.m. and 5:00
8 p.m. on any day after the days on which the 1969 and 1970
9 precinct re-registrations are held but not on any day within 27
10 days preceding the ensuing general election and thereafter for
11 the registration provided in Section 4-7 all such applications
12 shall be presented to the county clerk or his duly authorized
13 representative by the applicant in person between the hours of
14 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding
15 the ensuing general election. Such application shall be heard
16 by the county clerk or his duly authorized representative at
17 the time the application is presented. If the applicant for
18 registration has registered with the county clerk, such
19 application may be presented to and heard by the county clerk
20 or by his duly authorized representative upon the dates
21 specified above or at any time prior thereto designated by the
22 county clerk.

23 Any otherwise qualified person who is absent from his
24 county of residence either due to business of the United States
25 or because he is temporarily outside the territorial limits of

1 the United States may become registered by mailing an
2 application to the county clerk within the periods of
3 registration provided for in this Article, or by simultaneous
4 application for absentee registration and absentee ballot as
5 provided in Article 20 of this Code.

6 Upon receipt of such application the county clerk shall
7 immediately mail an affidavit of registration in duplicate,
8 which affidavit shall contain the following and such other
9 information as the State Board of Elections may think it proper
10 to require for the identification of the applicant:

11 Name. The name of the applicant, giving surname and first
12 or Christian name in full, and the middle name or the initial
13 for such middle name, if any.

14 Sex.

15 Residence. The name and number of the street, avenue or
16 other location of the dwelling, and such additional clear and
17 definite description as may be necessary to determine the exact
18 location of the dwelling of the applicant. Where the location
19 cannot be determined by street and number, then the Section,
20 congressional township and range number may be used, or such
21 other information as may be necessary, including post office
22 mailing address.

23 Electronic mail address, if the registrant has provided
24 this information.

25 Term of residence in the State of Illinois and the
26 precinct.

1 Nativity. The State or country in which the applicant was
2 born.

3 Citizenship. Whether the applicant is native born or
4 naturalized. If naturalized, the court, place and date of
5 naturalization.

6 Age. Date of birth, by month, day and year.

7 Out of State address of

8 AFFIDAVIT OF REGISTRATION

9 State of)

10)ss

11 County of)

12 I hereby swear (or affirm) that I am a citizen of the
13 United States; that on the day of the next election I shall
14 have resided in the State of Illinois and in the election
15 precinct 30 days; that I am fully qualified to vote, that I am
16 not registered to vote anywhere else in the United States, that
17 I intend to remain a resident of the State of Illinois and of
18 the election precinct, that I intend to return to the State of
19 Illinois, and that the above statements are true.

20

21 (His or her signature or mark)

22 Subscribed and sworn to before me, an officer qualified to
23 administer oaths, on (insert date).

24

25 Signature of officer administering oath.

26 Upon receipt of the executed duplicate affidavit of

1 Registration, the county clerk shall transfer the information
2 contained thereon to duplicate Registration Cards provided for
3 in Section 4-8 of this Article and shall attach thereto a copy
4 of each of the duplicate affidavit of registration and
5 thereafter such registration card and affidavit shall
6 constitute the registration of such person the same as if he
7 had applied for registration in person.

8 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
9 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
10 98-756, eff. 7-16-14.)

11 (Text of Section after amendment by P.A. 98-1171)

12 Sec. 4-10. Except as herein provided, no person shall be
13 registered, unless he applies in person to a registration
14 officer, answers such relevant questions as may be asked of him
15 by the registration officer, and executes the affidavit of
16 registration. The registration officer shall require the
17 applicant to furnish two forms of identification, and except in
18 the case of a homeless individual, one of which must include
19 his or her residence address. These forms of identification
20 shall include, but not be limited to, any of the following:
21 driver's license, social security card, public aid
22 identification card, utility bill, employee or student
23 identification card, lease or contract for a residence, credit
24 card, or a civic, union or professional association membership
25 card. The registration officer shall require a homeless

1 individual to furnish evidence of his or her use of the mailing
2 address stated. This use may be demonstrated by a piece of mail
3 addressed to that individual and received at that address or by
4 a statement from a person authorizing use of the mailing
5 address. The registration officer shall require each applicant
6 for registration to read or have read to him the affidavit of
7 registration before permitting him to execute the affidavit.

8 One of the registration officers or a deputy registration
9 officer, county clerk, or clerk in the office of the county
10 clerk, shall administer to all persons who shall personally
11 apply to register the following oath or affirmation:

12 "You do solemnly swear (or affirm) that you will fully and
13 truly answer all such questions as shall be put to you touching
14 your name, place of residence, place of birth, your
15 qualifications as an elector and your right as such to register
16 and vote under the laws of the State of Illinois."

17 The registration officer shall satisfy himself that each
18 applicant for registration is qualified to register before
19 registering him. If the registration officer has reason to
20 believe that the applicant is a resident of a Soldiers' and
21 Sailors' Home or any facility which is licensed or certified
22 pursuant to the Nursing Home Care Act, the Specialized Mental
23 Health Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
24 Act, or the MC/DD Act, the following question shall be put,
25 "When you entered the home which is your present address, was
26 it your bona fide intention to become a resident thereof?" Any

1 voter of a township, city, village or incorporated town in
2 which such applicant resides, shall be permitted to be present
3 at the place of any precinct registration and shall have the
4 right to challenge any applicant who applies to be registered.

5 In case the officer is not satisfied that the applicant is
6 qualified he shall forthwith notify such applicant in writing
7 to appear before the county clerk to complete his registration.
8 Upon the card of such applicant shall be written the word
9 "incomplete" and no such applicant shall be permitted to vote
10 unless such registration is satisfactorily completed as
11 hereinafter provided. No registration shall be taken and marked
12 as incomplete if information to complete it can be furnished on
13 the date of the original application.

14 Any person claiming to be an elector in any election
15 precinct and whose registration card is marked "Incomplete" may
16 make and sign an application in writing, under oath, to the
17 county clerk in substance in the following form:

18 "I do solemnly swear that I,, did on (insert date)
19 make application to the board of registry of the precinct
20 of the township of (or to the county clerk of county)
21 and that said board or clerk refused to complete my
22 registration as a qualified voter in said precinct. That I
23 reside in said precinct, that I intend to reside in said
24 precinct, and am a duly qualified voter of said precinct and am
25 entitled to be registered to vote in said precinct at the next
26 election.

1 (Signature of applicant)"

2 All such applications shall be presented to the county
3 clerk or to his duly authorized representative by the
4 applicant, in person between the hours of 9:00 a.m. and 5:00
5 p.m. on any day after the days on which the 1969 and 1970
6 precinct re-registrations are held but not on any day within 27
7 days preceding the ensuing general election and thereafter for
8 the registration provided in Section 4-7 all such applications
9 shall be presented to the county clerk or his duly authorized
10 representative by the applicant in person between the hours of
11 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding
12 the ensuing general election. Such application shall be heard
13 by the county clerk or his duly authorized representative at
14 the time the application is presented. If the applicant for
15 registration has registered with the county clerk, such
16 application may be presented to and heard by the county clerk
17 or by his duly authorized representative upon the dates
18 specified above or at any time prior thereto designated by the
19 county clerk.

20 Any otherwise qualified person who is absent from his
21 county of residence either due to business of the United States
22 or because he is temporarily outside the territorial limits of
23 the United States may become registered by mailing an
24 application to the county clerk within the periods of
25 registration provided for in this Article, or by simultaneous

1 application for registration by mail and vote by mail ballot as
2 provided in Article 20 of this Code.

3 Upon receipt of such application the county clerk shall
4 immediately mail an affidavit of registration in duplicate,
5 which affidavit shall contain the following and such other
6 information as the State Board of Elections may think it proper
7 to require for the identification of the applicant:

8 Name. The name of the applicant, giving surname and first
9 or Christian name in full, and the middle name or the initial
10 for such middle name, if any.

11 Sex.

12 Residence. The name and number of the street, avenue or
13 other location of the dwelling, and such additional clear and
14 definite description as may be necessary to determine the exact
15 location of the dwelling of the applicant. Where the location
16 cannot be determined by street and number, then the Section,
17 congressional township and range number may be used, or such
18 other information as may be necessary, including post office
19 mailing address.

20 Electronic mail address, if the registrant has provided
21 this information.

22 Term of residence in the State of Illinois and the
23 precinct.

24 Nativity. The State or country in which the applicant was
25 born.

26 Citizenship. Whether the applicant is native born or

1 naturalized. If naturalized, the court, place and date of
2 naturalization.

3 Age. Date of birth, by month, day and year.

4 Out of State address of

5 AFFIDAVIT OF REGISTRATION

6 State of)

7)ss

8 County of)

9 I hereby swear (or affirm) that I am a citizen of the
10 United States; that on the day of the next election I shall
11 have resided in the State of Illinois and in the election
12 precinct 30 days; that I am fully qualified to vote, that I am
13 not registered to vote anywhere else in the United States, that
14 I intend to remain a resident of the State of Illinois and of
15 the election precinct, that I intend to return to the State of
16 Illinois, and that the above statements are true.

17

18 (His or her signature or mark)

19 Subscribed and sworn to before me, an officer qualified to
20 administer oaths, on (insert date).

21

22 Signature of officer administering oath.

23 Upon receipt of the executed duplicate affidavit of
24 Registration, the county clerk shall transfer the information
25 contained thereon to duplicate Registration Cards provided for
26 in Section 4-8 of this Article and shall attach thereto a copy

1 of each of the duplicate affidavit of registration and
2 thereafter such registration card and affidavit shall
3 constitute the registration of such person the same as if he
4 had applied for registration in person.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
7 98-756, eff. 7-16-14; 98-1171, eff. 6-1-15.)

8 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

9 (Text of Section before amendment by P.A. 98-1171)

10 Sec. 5-9. Except as herein provided, no person shall be
11 registered unless he applies in person to registration officer,
12 answers such relevant questions as may be asked of him by the
13 registration officer, and executes the affidavit of
14 registration. The registration officer shall require the
15 applicant to furnish two forms of identification, and except in
16 the case of a homeless individual, one of which must include
17 his or her residence address. These forms of identification
18 shall include, but not be limited to, any of the following:
19 driver's license, social security card, public aid
20 identification card, utility bill, employee or student
21 identification card, lease or contract for a residence, credit
22 card, or a civic, union or professional association membership
23 card. The registration officer shall require a homeless
24 individual to furnish evidence of his or her use of the mailing
25 address stated. This use may be demonstrated by a piece of mail

1 addressed to that individual and received at that address or by
2 a statement from a person authorizing use of the mailing
3 address. The registration officer shall require each applicant
4 for registration to read or have read to him the affidavit of
5 registration before permitting him to execute the affidavit.

6 One of the Deputy Registrars, the Judge of Registration, or
7 an Officer of Registration, County Clerk, or clerk in the
8 office of the County Clerk, shall administer to all persons who
9 shall personally apply to register the following oath or
10 affirmation:

11 "You do solemnly swear (or affirm) that you will fully and
12 truly answer all such questions as shall be put to you touching
13 your place of residence, name, place of birth, your
14 qualifications as an elector and your right as such to register
15 and vote under the laws of the State of Illinois."

16 The Registration Officer shall satisfy himself that each
17 applicant for registration is qualified to register before
18 registering him. If the registration officer has reason to
19 believe that the applicant is a resident of a Soldiers' and
20 Sailors' Home or any facility which is licensed or certified
21 pursuant to the Nursing Home Care Act, the Specialized Mental
22 Health Rehabilitation Act of 2013, or the ID/DD Community Care
23 Act, the following question shall be put, "When you entered the
24 home which is your present address, was it your bona fide
25 intention to become a resident thereof?" Any voter of a
26 township, city, village or incorporated town in which such

1 applicant resides, shall be permitted to be present at the
2 place of precinct registration, and shall have the right to
3 challenge any applicant who applies to be registered.

4 In case the officer is not satisfied that the applicant is
5 qualified, he shall forthwith in writing notify such applicant
6 to appear before the County Clerk to furnish further proof of
7 his qualifications. Upon the card of such applicant shall be
8 written the word "Incomplete" and no such applicant shall be
9 permitted to vote unless such registration is satisfactorily
10 completed as hereinafter provided. No registration shall be
11 taken and marked as "incomplete" if information to complete it
12 can be furnished on the date of the original application.

13 Any person claiming to be an elector in any election
14 precinct in such township, city, village or incorporated town
15 and whose registration is marked "Incomplete" may make and sign
16 an application in writing, under oath, to the County Clerk in
17 substance in the following form:

18 "I do solemnly swear that I,, did on (insert
19 date) make application to the Board of Registry of the
20 precinct of ward of the City of or of the
21 District Town of (or to the
22 County Clerk of) and County; that
23 said Board or Clerk refused to complete my registration as a
24 qualified voter in said precinct, that I reside in said
25 precinct (or that I intend to reside in said precinct), am a
26 duly qualified voter and entitled to vote in said precinct at

1 the next election.

2

3 (Signature of Applicant)"

4 All such applications shall be presented to the County
5 Clerk by the applicant, in person between the hours of nine
6 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of
7 the third week subsequent to the weeks in which the 1961 and
8 1962 precinct re-registrations are to be held, and thereafter
9 for the registration provided in Section 5-17 of this Article,
10 all such applications shall be presented to the County Clerk by
11 the applicant in person between the hours of nine o'clock a.m.
12 and nine o'clock p.m. on Monday and Tuesday of the third week
13 prior to the date on which such election is to be held.

14 Any otherwise qualified person who is absent from his
15 county of residence either due to business of the United States
16 or because he is temporarily outside the territorial limits of
17 the United States may become registered by mailing an
18 application to the county clerk within the periods of
19 registration provided for in this Article or by simultaneous
20 application for absentee registration and absentee ballot as
21 provided in Article 20 of this Code.

22 Upon receipt of such application the county clerk shall
23 immediately mail an affidavit of registration in duplicate,
24 which affidavit shall contain the following and such other
25 information as the State Board of Elections may think it proper
26 to require for the identification of the applicant:

1 Name. The name of the applicant, giving surname and first
2 or Christian name in full, and the middle name or the initial
3 for such middle name, if any.

4 Sex.

5 Residence. The name and number of the street, avenue or
6 other location of the dwelling, and such additional clear and
7 definite description as may be necessary to determine the exact
8 location of the dwelling of the applicant. Where the location
9 cannot be determined by street and number, then the Section,
10 congressional township and range number may be used, or such
11 other information as may be necessary, including post office
12 mailing address.

13 Electronic mail address, if the registrant has provided
14 this information.

15 Term of residence in the State of Illinois and the
16 precinct.

17 Nativity. The State or country in which the applicant was
18 born.

19 Citizenship. Whether the applicant is native born or
20 naturalized. If naturalized, the court, place and date of
21 naturalization.

22 Age. Date of birth, by month, day and year.

23 Out of State address of

24 AFFIDAVIT OF REGISTRATION

25 State of)

26)ss

1 County of)

2 I hereby swear (or affirm) that I am a citizen of the
3 United States; that on the day of the next election I shall
4 have resided in the State of Illinois for 6 months and in the
5 election precinct 30 days; that I am fully qualified to vote,
6 that I am not registered to vote anywhere else in the United
7 States, that I intend to remain a resident of the State of
8 Illinois and of the election precinct, that I intend to return
9 to the State of Illinois, and that the above statements are
10 true.

11

12 (His or her signature or mark)

13 Subscribed and sworn to before me, an officer qualified to
14 administer oaths, on (insert date).

15

16 Signature of officer administering oath.

17 Upon receipt of the executed duplicate affidavit of
18 Registration, the county clerk shall transfer the information
19 contained thereon to duplicate Registration Cards provided for
20 in Section 5-7 of this Article and shall attach thereto a copy
21 of each of the duplicate affidavit of registration and
22 thereafter such registration card and affidavit shall
23 constitute the registration of such person the same as if he
24 had applied for registration in person.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,

1 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
2 98-756, eff. 7-16-14.)

3 (Text of Section after amendment by P.A. 98-1171)

4 Sec. 5-9. Except as herein provided, no person shall be
5 registered unless he applies in person to registration officer,
6 answers such relevant questions as may be asked of him by the
7 registration officer, and executes the affidavit of
8 registration. The registration officer shall require the
9 applicant to furnish two forms of identification, and except in
10 the case of a homeless individual, one of which must include
11 his or her residence address. These forms of identification
12 shall include, but not be limited to, any of the following:
13 driver's license, social security card, public aid
14 identification card, utility bill, employee or student
15 identification card, lease or contract for a residence, credit
16 card, or a civic, union or professional association membership
17 card. The registration officer shall require a homeless
18 individual to furnish evidence of his or her use of the mailing
19 address stated. This use may be demonstrated by a piece of mail
20 addressed to that individual and received at that address or by
21 a statement from a person authorizing use of the mailing
22 address. The registration officer shall require each applicant
23 for registration to read or have read to him the affidavit of
24 registration before permitting him to execute the affidavit.

25 One of the Deputy Registrars, the Judge of Registration, or

1 an Officer of Registration, County Clerk, or clerk in the
2 office of the County Clerk, shall administer to all persons who
3 shall personally apply to register the following oath or
4 affirmation:

5 "You do solemnly swear (or affirm) that you will fully and
6 truly answer all such questions as shall be put to you touching
7 your place of residence, name, place of birth, your
8 qualifications as an elector and your right as such to register
9 and vote under the laws of the State of Illinois."

10 The Registration Officer shall satisfy himself that each
11 applicant for registration is qualified to register before
12 registering him. If the registration officer has reason to
13 believe that the applicant is a resident of a Soldiers' and
14 Sailors' Home or any facility which is licensed or certified
15 pursuant to the Nursing Home Care Act, the Specialized Mental
16 Health Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
17 Act, or the MC/DD Act, the following question shall be put,
18 "When you entered the home which is your present address, was
19 it your bona fide intention to become a resident thereof?" Any
20 voter of a township, city, village or incorporated town in
21 which such applicant resides, shall be permitted to be present
22 at the place of precinct registration, and shall have the right
23 to challenge any applicant who applies to be registered.

24 In case the officer is not satisfied that the applicant is
25 qualified, he shall forthwith in writing notify such applicant
26 to appear before the County Clerk to furnish further proof of

1 his qualifications. Upon the card of such applicant shall be
 2 written the word "Incomplete" and no such applicant shall be
 3 permitted to vote unless such registration is satisfactorily
 4 completed as hereinafter provided. No registration shall be
 5 taken and marked as "incomplete" if information to complete it
 6 can be furnished on the date of the original application.

7 Any person claiming to be an elector in any election
 8 precinct in such township, city, village or incorporated town
 9 and whose registration is marked "Incomplete" may make and sign
 10 an application in writing, under oath, to the County Clerk in
 11 substance in the following form:

12 "I do solemnly swear that I,, did on (insert
 13 date) make application to the Board of Registry of the
 14 precinct of ward of the City of or of the
 15 District Town of (or to the
 16 County Clerk of) and County; that
 17 said Board or Clerk refused to complete my registration as a
 18 qualified voter in said precinct, that I reside in said
 19 precinct (or that I intend to reside in said precinct), am a
 20 duly qualified voter and entitled to vote in said precinct at
 21 the next election.

22
 23 (Signature of Applicant)"

24 All such applications shall be presented to the County
 25 Clerk by the applicant, in person between the hours of nine
 26 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of

1 the third week subsequent to the weeks in which the 1961 and
2 1962 precinct re-registrations are to be held, and thereafter
3 for the registration provided in Section 5-17 of this Article,
4 all such applications shall be presented to the County Clerk by
5 the applicant in person between the hours of nine o'clock a.m.
6 and nine o'clock p.m. on Monday and Tuesday of the third week
7 prior to the date on which such election is to be held.

8 Any otherwise qualified person who is absent from his
9 county of residence either due to business of the United States
10 or because he is temporarily outside the territorial limits of
11 the United States may become registered by mailing an
12 application to the county clerk within the periods of
13 registration provided for in this Article or by simultaneous
14 application for registration by mail and vote by mail ballot as
15 provided in Article 20 of this Code.

16 Upon receipt of such application the county clerk shall
17 immediately mail an affidavit of registration in duplicate,
18 which affidavit shall contain the following and such other
19 information as the State Board of Elections may think it proper
20 to require for the identification of the applicant:

21 Name. The name of the applicant, giving surname and first
22 or Christian name in full, and the middle name or the initial
23 for such middle name, if any.

24 Sex.

25 Residence. The name and number of the street, avenue or
26 other location of the dwelling, and such additional clear and

1 definite description as may be necessary to determine the exact
 2 location of the dwelling of the applicant. Where the location
 3 cannot be determined by street and number, then the Section,
 4 congressional township and range number may be used, or such
 5 other information as may be necessary, including post office
 6 mailing address.

7 Electronic mail address, if the registrant has provided
 8 this information.

9 Term of residence in the State of Illinois and the
 10 precinct.

11 Nativity. The State or country in which the applicant was
 12 born.

13 Citizenship. Whether the applicant is native born or
 14 naturalized. If naturalized, the court, place and date of
 15 naturalization.

16 Age. Date of birth, by month, day and year.

17 Out of State address of

18 AFFIDAVIT OF REGISTRATION

19 State of

20)ss

21 County of

22 I hereby swear (or affirm) that I am a citizen of the
 23 United States; that on the day of the next election I shall
 24 have resided in the State of Illinois for 6 months and in the
 25 election precinct 30 days; that I am fully qualified to vote,
 26 that I am not registered to vote anywhere else in the United

1 States, that I intend to remain a resident of the State of
2 Illinois and of the election precinct, that I intend to return
3 to the State of Illinois, and that the above statements are
4 true.

5

6 (His or her signature or mark)

7 Subscribed and sworn to before me, an officer qualified to
8 administer oaths, on (insert date).

9

10 Signature of officer administering oath.

11 Upon receipt of the executed duplicate affidavit of
12 Registration, the county clerk shall transfer the information
13 contained thereon to duplicate Registration Cards provided for
14 in Section 5-7 of this Article and shall attach thereto a copy
15 of each of the duplicate affidavit of registration and
16 thereafter such registration card and affidavit shall
17 constitute the registration of such person the same as if he
18 had applied for registration in person.

19 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
20 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
21 98-756, eff. 7-16-14; 98-1171, eff. 6-1-15.)

22 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

23 (Text of Section before amendment by P.A. 98-1171)

24 Sec. 5-16.3. The county clerk may establish temporary

1 places of registration for such times and at such locations
2 within the county as the county clerk may select. However, no
3 temporary place of registration may be in operation during the
4 27 days preceding an election. Notice of time and place of
5 registration at any such temporary place of registration under
6 this Section shall be published by the county clerk in a
7 newspaper having a general circulation in the county not less
8 than 3 nor more than 15 days before the holding of such
9 registration.

10 Temporary places of registration shall be established so
11 that the areas of concentration of population or use by the
12 public are served, whether by facilities provided in places of
13 private business or in public buildings or in mobile units.
14 Areas which may be designated as temporary places of
15 registration include, but are not limited to, facilities
16 licensed or certified pursuant to the Nursing Home Care Act,
17 the Specialized Mental Health Rehabilitation Act of 2013, or
18 the ID/DD Community Care Act, Soldiers' and Sailors' Homes,
19 shopping centers, business districts, public buildings and
20 county fairs.

21 Temporary places of registration shall be available to the
22 public not less than 2 hours per year for each 1,000 population
23 or fraction thereof in the county.

24 All temporary places of registration shall be manned by
25 deputy county clerks or deputy registrars appointed pursuant to
26 Section 5-16.2.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-104, eff. 7-22-13.)

3 (Text of Section after amendment by P.A. 98-1171)

4 Sec. 5-16.3. The county clerk may establish temporary
5 places of registration for such times and at such locations
6 within the county as the county clerk may select. Notice of
7 time and place of registration at any such temporary place of
8 registration under this Section shall be published by the
9 county clerk in a newspaper having a general circulation in the
10 county not less than 3 nor more than 15 days before the holding
11 of such registration.

12 Temporary places of registration shall be established so
13 that the areas of concentration of population or use by the
14 public are served, whether by facilities provided in places of
15 private business or in public buildings or in mobile units.
16 Areas which may be designated as temporary places of
17 registration include, but are not limited to, facilities
18 licensed or certified pursuant to the Nursing Home Care Act,
19 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
20 the ID/DD Community Care Act, or the MC/DD Act, Soldiers' and
21 Sailors' Homes, shopping centers, business districts, public
22 buildings and county fairs.

23 Temporary places of registration shall be available to the
24 public not less than 2 hours per year for each 1,000 population
25 or fraction thereof in the county.

1 All temporary places of registration shall be manned by
2 deputy county clerks or deputy registrars appointed pursuant to
3 Section 5-16.2.

4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

6 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

7 (Text of Section before amendment by P.A. 98-1171)

8 Sec. 6-50.3. The board of election commissioners may
9 establish temporary places of registration for such times and
10 at such locations as the board may select. However, no
11 temporary place of registration may be in operation during the
12 27 days preceding an election. Notice of the time and place of
13 registration at any such temporary place of registration under
14 this Section shall be published by the board of election
15 commissioners in a newspaper having a general circulation in
16 the city, village or incorporated town not less than 3 nor more
17 than 15 days before the holding of such registration.

18 Temporary places of registration shall be established so
19 that the areas of concentration of population or use by the
20 public are served, whether by facilities provided in places of
21 private business or in public buildings or in mobile units.
22 Areas which may be designated as temporary places of
23 registration include, but are not limited to, facilities
24 licensed or certified pursuant to the Nursing Home Care Act,
25 the Specialized Mental Health Rehabilitation Act of 2013, or

1 the ID/DD Community Care Act, Soldiers' and Sailors' Homes,
2 shopping centers, business districts, public buildings and
3 county fairs.

4 Temporary places of registration shall be available to the
5 public not less than 2 hours per year for each 1,000 population
6 or fraction thereof in the county.

7 All temporary places of registration shall be manned by
8 employees of the board of election commissioners or deputy
9 registrars appointed pursuant to Section 6-50.2.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 98-104, eff. 7-22-13.)

12 (Text of Section after amendment by P.A. 98-1171)

13 Sec. 6-50.3. The board of election commissioners may
14 establish temporary places of registration for such times and
15 at such locations as the board may select. Notice of the time
16 and place of registration at any such temporary place of
17 registration under this Section shall be published by the board
18 of election commissioners in a newspaper having a general
19 circulation in the city, village or incorporated town not less
20 than 3 nor more than 15 days before the holding of such
21 registration.

22 Temporary places of registration shall be established so
23 that the areas of concentration of population or use by the
24 public are served, whether by facilities provided in places of
25 private business or in public buildings or in mobile units.

1 Areas which may be designated as temporary places of
2 registration include, but are not limited to, facilities
3 licensed or certified pursuant to the Nursing Home Care Act,
4 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
5 the ID/DD Community Care Act, or the MC/DD Act, Soldiers' and
6 Sailors' Homes, shopping centers, business districts, public
7 buildings and county fairs.

8 Temporary places of registration shall be available to the
9 public not less than 2 hours per year for each 1,000 population
10 or fraction thereof in the county.

11 All temporary places of registration shall be manned by
12 employees of the board of election commissioners or deputy
13 registrars appointed pursuant to Section 6-50.2.

14 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
15 eff. 7-13-12; 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

16 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

17 Sec. 6-56. Not more than 30 nor less than 28 days before
18 any election under this Article, all owners, managers,
19 administrators or operators of hotels, lodging houses, rooming
20 houses, furnished apartments or facilities licensed or
21 certified under the Nursing Home Care Act, which house 4 or
22 more persons, outside the members of the family of such owner,
23 manager, administrator or operator, shall file with the board
24 of election commissioners a report, under oath, together with
25 one copy thereof, in such form as may be required by the board

1 of election commissioners, of the names and descriptions of all
2 lodgers, guests or residents claiming a voting residence at the
3 hotels, lodging houses, rooming houses, furnished apartments,
4 or facility licensed or certified under the Nursing Home Care
5 Act, the Specialized Mental Health Rehabilitation Act of 2013,
6 ~~or~~ the ID/DD Community Care Act, or the MC/DD Act under their
7 control. In counties having a population of 500,000 or more
8 such report shall be made on forms mailed to them by the board
9 of election commissioners. The board of election commissioners
10 shall sort and assemble the sworn copies of the reports in
11 numerical order according to ward and according to precincts
12 within each ward and shall, not later than 5 days after the
13 last day allowed by this Article for the filing of the reports,
14 maintain one assembled set of sworn duplicate reports available
15 for public inspection until 60 days after election days. Except
16 as is otherwise expressly provided in this Article, the board
17 shall not be required to perform any duties with respect to the
18 sworn reports other than to mail, sort, assemble, post and file
19 them as hereinabove provided.

20 Except in such cases where a precinct canvass is being
21 conducted by the Board of Election Commissioners prior to a
22 Primary or Election, the board of election commissioners shall
23 compare the original copy of each such report with the list of
24 registered voters from such addresses. Every person registered
25 from such address and not listed in such report or whose name
26 is different from any name so listed, shall immediately after

1 the last day of registration be sent a notice through the
2 United States mail, at the address appearing upon his
3 registration record card, requiring him to appear before the
4 board of election commissioners on one of the days specified in
5 Section 6-45 of this Article and show cause why his
6 registration should not be cancelled. The provisions of
7 Sections 6-45, 6-46 and 6-47 of this Article shall apply to
8 such hearing and proceedings subsequent thereto.

9 Any owner, manager or operator of any such hotel, lodging
10 house, rooming house or furnished apartment who shall fail or
11 neglect to file such statement and copy thereof as in this
12 Article provided, may, upon written information of the attorney
13 for the election commissioners, be cited by the election
14 commissioners or upon the complaint of any voter of such city,
15 village or incorporated town, to appear before them and furnish
16 such sworn statement and copy thereof and make such oral
17 statements under oath regarding such hotel, lodging house,
18 rooming house or furnished apartment, as the election
19 commissioners may require. The election commissioners shall
20 sit to hear such citations on the Friday of the fourth week
21 preceding the week in which such election is to be held. Such
22 citation shall be served not later than the day preceding the
23 day on which it is returnable.

24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
25 eff. 7-13-12; 98-104, eff. 7-22-13.)

1 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

2 (Text of Section before amendment by P.A. 98-1171)

3 Sec. 19-4. Mailing or delivery of ballots; time.
4 Immediately upon the receipt of such application either by mail
5 or electronic means, not more than 40 days nor less than 5 days
6 prior to such election, or by personal delivery not more than
7 40 days nor less than one day prior to such election, at the
8 office of such election authority, it shall be the duty of such
9 election authority to examine the records to ascertain whether
10 or not such applicant is lawfully entitled to vote as
11 requested, including a verification of the applicant's
12 signature by comparison with the signature on the official
13 registration record card, and if found so to be entitled to
14 vote, to post within one business day thereafter the name,
15 street address, ward and precinct number or township and
16 district number, as the case may be, of such applicant given on
17 a list, the pages of which are to be numbered consecutively to
18 be kept by such election authority for such purpose in a
19 conspicuous, open and public place accessible to the public at
20 the entrance of the office of such election authority, and in
21 such a manner that such list may be viewed without necessity of
22 requesting permission therefor. Within one day after posting
23 the name and other information of an applicant for an absentee
24 ballot, the election authority shall transmit by electronic
25 means pursuant to a process established by the State Board of
26 Elections that name and other posted information to the State

1 Board of Elections, which shall maintain those names and other
2 information in an electronic format on its website, arranged by
3 county and accessible to State and local political committees.
4 Within 2 business days after posting a name and other
5 information on the list within its office, the election
6 authority shall mail, postage prepaid, or deliver in person in
7 such office an official ballot or ballots if more than one are
8 to be voted at said election. Mail delivery of Temporarily
9 Absent Student ballot applications pursuant to Section 19-12.3
10 shall be by nonforwardable mail. However, for the consolidated
11 election, absentee ballots for certain precincts may be
12 delivered to applicants not less than 25 days before the
13 election if so much time is required to have prepared and
14 printed the ballots containing the names of persons nominated
15 for offices at the consolidated primary. The election authority
16 shall enclose with each absentee ballot or application written
17 instructions on how voting assistance shall be provided
18 pursuant to Section 17-14 and a document, written and approved
19 by the State Board of Elections, enumerating the circumstances
20 under which a person is authorized to vote by absentee ballot
21 pursuant to this Article; such document shall also include a
22 statement informing the applicant that if he or she falsifies
23 or is solicited by another to falsify his or her eligibility to
24 cast an absentee ballot, such applicant or other is subject to
25 penalties pursuant to Section 29-10 and Section 29-20 of the
26 Election Code. Each election authority shall maintain a list of

1 the name, street address, ward and precinct, or township and
2 district number, as the case may be, of all applicants who have
3 returned absentee ballots to such authority, and the name of
4 such absent voter shall be added to such list within one
5 business day from receipt of such ballot. If the absentee
6 ballot envelope indicates that the voter was assisted in
7 casting the ballot, the name of the person so assisting shall
8 be included on the list. The list, the pages of which are to be
9 numbered consecutively, shall be kept by each election
10 authority in a conspicuous, open, and public place accessible
11 to the public at the entrance of the office of the election
12 authority and in a manner that the list may be viewed without
13 necessity of requesting permission for viewing.

14 Each election authority shall maintain a list for each
15 election of the voters to whom it has issued absentee ballots.
16 The list shall be maintained for each precinct within the
17 jurisdiction of the election authority. Prior to the opening of
18 the polls on election day, the election authority shall deliver
19 to the judges of election in each precinct the list of
20 registered voters in that precinct to whom absentee ballots
21 have been issued by mail.

22 Each election authority shall maintain a list for each
23 election of voters to whom it has issued temporarily absent
24 student ballots. The list shall be maintained for each election
25 jurisdiction within which such voters temporarily abide.
26 Immediately after the close of the period during which

1 application may be made by mail or electronic means for
2 absentee ballots, each election authority shall mail to each
3 other election authority within the State a certified list of
4 all such voters temporarily abiding within the jurisdiction of
5 the other election authority.

6 In the event that the return address of an application for
7 ballot by a physically incapacitated elector is that of a
8 facility licensed or certified under the Nursing Home Care Act,
9 the Specialized Mental Health Rehabilitation Act of 2013, or
10 the ID/DD Community Care Act, within the jurisdiction of the
11 election authority, and the applicant is a registered voter in
12 the precinct in which such facility is located, the ballots
13 shall be prepared and transmitted to a responsible judge of
14 election no later than 9 a.m. on the Saturday, Sunday or Monday
15 immediately preceding the election as designated by the
16 election authority under Section 19-12.2. Such judge shall
17 deliver in person on the designated day the ballot to the
18 applicant on the premises of the facility from which
19 application was made. The election authority shall by mail
20 notify the applicant in such facility that the ballot will be
21 delivered by a judge of election on the designated day.

22 All applications for absentee ballots shall be available at
23 the office of the election authority for public inspection upon
24 request from the time of receipt thereof by the election
25 authority until 30 days after the election, except during the
26 time such applications are kept in the office of the election

1 authority pursuant to Section 19-7, and except during the time
2 such applications are in the possession of the judges of
3 election.

4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 7-29-13;
6 98-756, eff. 7-16-14.)

7 (Text of Section after amendment by P.A. 98-1171)

8 Sec. 19-4. Mailing or delivery of ballots; time.
9 Immediately upon the receipt of such application either by mail
10 or electronic means, not more than 90 days nor less than 5 days
11 prior to such election, or by personal delivery not more than
12 90 days nor less than one day prior to such election, at the
13 office of such election authority, it shall be the duty of such
14 election authority to examine the records to ascertain whether
15 or not such applicant is lawfully entitled to vote as
16 requested, including a verification of the applicant's
17 signature by comparison with the signature on the official
18 registration record card, and if found so to be entitled to
19 vote, to post within one business day thereafter the name,
20 street address, ward and precinct number or township and
21 district number, as the case may be, of such applicant given on
22 a list, the pages of which are to be numbered consecutively to
23 be kept by such election authority for such purpose in a
24 conspicuous, open and public place accessible to the public at
25 the entrance of the office of such election authority, and in

1 such a manner that such list may be viewed without necessity of
2 requesting permission therefor. Within one day after posting
3 the name and other information of an applicant for a vote by
4 mail ballot, the election authority shall transmit by
5 electronic means pursuant to a process established by the State
6 Board of Elections that name and other posted information to
7 the State Board of Elections, which shall maintain those names
8 and other information in an electronic format on its website,
9 arranged by county and accessible to State and local political
10 committees. Within 2 business days after posting a name and
11 other information on the list within its office, but no sooner
12 than 40 days before an election, the election authority shall
13 mail, postage prepaid, or deliver in person in such office an
14 official ballot or ballots if more than one are to be voted at
15 said election. Mail delivery of Temporarily Absent Student
16 ballot applications pursuant to Section 19-12.3 shall be by
17 nonforwardable mail. However, for the consolidated election,
18 vote by mail ballots for certain precincts may be delivered to
19 applicants not less than 25 days before the election if so much
20 time is required to have prepared and printed the ballots
21 containing the names of persons nominated for offices at the
22 consolidated primary. The election authority shall enclose
23 with each vote by mail ballot or application written
24 instructions on how voting assistance shall be provided
25 pursuant to Section 17-14 and a document, written and approved
26 by the State Board of Elections, informing the vote by mail

1 voter of the required postage for returning the application and
2 ballot, and enumerating the circumstances under which a person
3 is authorized to vote by vote by mail ballot pursuant to this
4 Article; such document shall also include a statement informing
5 the applicant that if he or she falsifies or is solicited by
6 another to falsify his or her eligibility to cast a vote by
7 mail ballot, such applicant or other is subject to penalties
8 pursuant to Section 29-10 and Section 29-20 of the Election
9 Code. Each election authority shall maintain a list of the
10 name, street address, ward and precinct, or township and
11 district number, as the case may be, of all applicants who have
12 returned vote by mail ballots to such authority, and the name
13 of such vote by mail voter shall be added to such list within
14 one business day from receipt of such ballot. If the vote by
15 mail ballot envelope indicates that the voter was assisted in
16 casting the ballot, the name of the person so assisting shall
17 be included on the list. The list, the pages of which are to be
18 numbered consecutively, shall be kept by each election
19 authority in a conspicuous, open, and public place accessible
20 to the public at the entrance of the office of the election
21 authority and in a manner that the list may be viewed without
22 necessity of requesting permission for viewing.

23 Each election authority shall maintain a list for each
24 election of the voters to whom it has issued vote by mail
25 ballots. The list shall be maintained for each precinct within
26 the jurisdiction of the election authority. Prior to the

1 opening of the polls on election day, the election authority
2 shall deliver to the judges of election in each precinct the
3 list of registered voters in that precinct to whom vote by mail
4 ballots have been issued by mail.

5 Each election authority shall maintain a list for each
6 election of voters to whom it has issued temporarily absent
7 student ballots. The list shall be maintained for each election
8 jurisdiction within which such voters temporarily abide.
9 Immediately after the close of the period during which
10 application may be made by mail or electronic means for vote by
11 mail ballots, each election authority shall mail to each other
12 election authority within the State a certified list of all
13 such voters temporarily abiding within the jurisdiction of the
14 other election authority.

15 In the event that the return address of an application for
16 ballot by a physically incapacitated elector is that of a
17 facility licensed or certified under the Nursing Home Care Act,
18 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
19 the ID/DD Community Care Act, or the MC/DD Act, within the
20 jurisdiction of the election authority, and the applicant is a
21 registered voter in the precinct in which such facility is
22 located, the ballots shall be prepared and transmitted to a
23 responsible judge of election no later than 9 a.m. on the
24 Saturday, Sunday or Monday immediately preceding the election
25 as designated by the election authority under Section 19-12.2.
26 Such judge shall deliver in person on the designated day the

1 ballot to the applicant on the premises of the facility from
2 which application was made. The election authority shall by
3 mail notify the applicant in such facility that the ballot will
4 be delivered by a judge of election on the designated day.

5 All applications for vote by mail ballots shall be
6 available at the office of the election authority for public
7 inspection upon request from the time of receipt thereof by the
8 election authority until 30 days after the election, except
9 during the time such applications are kept in the office of the
10 election authority pursuant to Section 19-7, and except during
11 the time such applications are in the possession of the judges
12 of election.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
14 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 7-29-13;
15 98-756, eff. 7-16-14; 98-1171, eff. 6-1-15.)

16 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

17 (Text of Section before amendment by P.A. 98-1171)

18 Sec. 19-12.1. Any qualified elector who has secured an
19 Illinois Person with a Disability Identification Card in
20 accordance with the Illinois Identification Card Act,
21 indicating that the person named thereon has a Class 1A or
22 Class 2 disability or any qualified voter who has a permanent
23 physical incapacity of such a nature as to make it improbable
24 that he will be able to be present at the polls at any future
25 election, or any voter who is a resident of (i) a federally

1 operated veterans' home, hospital, or facility located in
2 Illinois or (ii) a facility licensed or certified pursuant to
3 the Nursing Home Care Act, the Specialized Mental Health
4 Rehabilitation Act of 2013, or the ID/DD Community Care Act and
5 has a condition or disability of such a nature as to make it
6 improbable that he will be able to be present at the polls at
7 any future election, may secure a disabled voter's or nursing
8 home resident's identification card, which will enable him to
9 vote under this Article as a physically incapacitated or
10 nursing home voter. For the purposes of this Section,
11 "federally operated veterans' home, hospital, or facility"
12 means the long-term care facilities at the Jesse Brown VA
13 Medical Center, Illiana Health Care System, Edward Hines, Jr.
14 VA Hospital, Marion VA Medical Center, and Captain James A.
15 Lovell Federal Health Care Center.

16 Application for a disabled voter's or nursing home
17 resident's identification card shall be made either: (a) in
18 writing, with voter's sworn affidavit, to the county clerk or
19 board of election commissioners, as the case may be, and shall
20 be accompanied by the affidavit of the attending physician
21 specifically describing the nature of the physical incapacity
22 or the fact that the voter is a nursing home resident and is
23 physically unable to be present at the polls on election days;
24 or (b) by presenting, in writing or otherwise, to the county
25 clerk or board of election commissioners, as the case may be,
26 proof that the applicant has secured an Illinois Person with a

1 Disability Identification Card indicating that the person
2 named thereon has a Class 1A or Class 2 disability. Upon the
3 receipt of either the sworn-to application and the physician's
4 affidavit or proof that the applicant has secured an Illinois
5 Person with a Disability Identification Card indicating that
6 the person named thereon has a Class 1A or Class 2 disability,
7 the county clerk or board of election commissioners shall issue
8 a disabled voter's or nursing home resident's identification
9 card. Such identification cards shall be issued for a period of
10 5 years, upon the expiration of which time the voter may secure
11 a new card by making application in the same manner as is
12 prescribed for the issuance of an original card, accompanied by
13 a new affidavit of the attending physician. The date of
14 expiration of such five-year period shall be made known to any
15 interested person by the election authority upon the request of
16 such person. Applications for the renewal of the identification
17 cards shall be mailed to the voters holding such cards not less
18 than 3 months prior to the date of expiration of the cards.

19 Each disabled voter's or nursing home resident's
20 identification card shall bear an identification number, which
21 shall be clearly noted on the voter's original and duplicate
22 registration record cards. In the event the holder becomes
23 physically capable of resuming normal voting, he must surrender
24 his disabled voter's or nursing home resident's identification
25 card to the county clerk or board of election commissioners
26 before the next election.

1 The holder of a disabled voter's or nursing home resident's
2 identification card may make application by mail for an
3 official ballot within the time prescribed by Section 19-2.
4 Such application shall contain the same information as is
5 included in the form of application for ballot by a physically
6 incapacitated elector prescribed in Section 19-3 except that it
7 shall also include the applicant's disabled voter's
8 identification card number and except that it need not be sworn
9 to. If an examination of the records discloses that the
10 applicant is lawfully entitled to vote, he shall be mailed a
11 ballot as provided in Section 19-4. The ballot envelope shall
12 be the same as that prescribed in Section 19-5 for physically
13 disabled voters, and the manner of voting and returning the
14 ballot shall be the same as that provided in this Article for
15 other absentee ballots, except that a statement to be
16 subscribed to by the voter but which need not be sworn to shall
17 be placed on the ballot envelope in lieu of the affidavit
18 prescribed by Section 19-5.

19 Any person who knowingly subscribes to a false statement in
20 connection with voting under this Section shall be guilty of a
21 Class A misdemeanor.

22 For the purposes of this Section, "nursing home resident"
23 includes a resident of (i) a federally operated veterans' home,
24 hospital, or facility located in Illinois or (ii) a facility
25 licensed under the ID/DD Community Care Act or the Specialized
26 Mental Health Rehabilitation Act of 2013. For the purposes of

1 this Section, "federally operated veterans' home, hospital, or
2 facility" means the long-term care facilities at the Jesse
3 Brown VA Medical Center, Illiana Health Care System, Edward
4 Hines, Jr. VA Hospital, Marion VA Medical Center, and Captain
5 James A. Lovell Federal Health Care Center.

6 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
7 eff. 1-1-12; 97-813, eff. 7-13-12; 97-1064, eff. 1-1-13;
8 98-104, eff. 7-22-13.)

9 (Text of Section after amendment by P.A. 98-1171)

10 Sec. 19-12.1. Any qualified elector who has secured an
11 Illinois Person with a Disability Identification Card in
12 accordance with the Illinois Identification Card Act,
13 indicating that the person named thereon has a Class 1A or
14 Class 2 disability or any qualified voter who has a permanent
15 physical incapacity of such a nature as to make it improbable
16 that he will be able to be present at the polls at any future
17 election, or any voter who is a resident of (i) a federally
18 operated veterans' home, hospital, or facility located in
19 Illinois or (ii) a facility licensed or certified pursuant to
20 the Nursing Home Care Act, the Specialized Mental Health
21 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
22 the MC/DD Act and has a condition or disability of such a
23 nature as to make it improbable that he will be able to be
24 present at the polls at any future election, may secure a
25 disabled voter's or nursing home resident's identification

1 card, which will enable him to vote under this Article as a
2 physically incapacitated or nursing home voter. For the
3 purposes of this Section, "federally operated veterans' home,
4 hospital, or facility" means the long-term care facilities at
5 the Jesse Brown VA Medical Center, Illiana Health Care System,
6 Edward Hines, Jr. VA Hospital, Marion VA Medical Center, and
7 Captain James A. Lovell Federal Health Care Center.

8 Application for a disabled voter's or nursing home
9 resident's identification card shall be made either: (a) in
10 writing, with voter's sworn affidavit, to the county clerk or
11 board of election commissioners, as the case may be, and shall
12 be accompanied by the affidavit of the attending physician
13 specifically describing the nature of the physical incapacity
14 or the fact that the voter is a nursing home resident and is
15 physically unable to be present at the polls on election days;
16 or (b) by presenting, in writing or otherwise, to the county
17 clerk or board of election commissioners, as the case may be,
18 proof that the applicant has secured an Illinois Person with a
19 Disability Identification Card indicating that the person
20 named thereon has a Class 1A or Class 2 disability. Upon the
21 receipt of either the sworn-to application and the physician's
22 affidavit or proof that the applicant has secured an Illinois
23 Person with a Disability Identification Card indicating that
24 the person named thereon has a Class 1A or Class 2 disability,
25 the county clerk or board of election commissioners shall issue
26 a disabled voter's or nursing home resident's identification

1 card. Such identification cards shall be issued for a period of
2 5 years, upon the expiration of which time the voter may secure
3 a new card by making application in the same manner as is
4 prescribed for the issuance of an original card, accompanied by
5 a new affidavit of the attending physician. The date of
6 expiration of such five-year period shall be made known to any
7 interested person by the election authority upon the request of
8 such person. Applications for the renewal of the identification
9 cards shall be mailed to the voters holding such cards not less
10 than 3 months prior to the date of expiration of the cards.

11 Each disabled voter's or nursing home resident's
12 identification card shall bear an identification number, which
13 shall be clearly noted on the voter's original and duplicate
14 registration record cards. In the event the holder becomes
15 physically capable of resuming normal voting, he must surrender
16 his disabled voter's or nursing home resident's identification
17 card to the county clerk or board of election commissioners
18 before the next election.

19 The holder of a disabled voter's or nursing home resident's
20 identification card may make application by mail for an
21 official ballot within the time prescribed by Section 19-2.
22 Such application shall contain the same information as is
23 included in the form of application for ballot by a physically
24 incapacitated elector prescribed in Section 19-3 except that it
25 shall also include the applicant's disabled voter's
26 identification card number and except that it need not be sworn

1 to. If an examination of the records discloses that the
2 applicant is lawfully entitled to vote, he shall be mailed a
3 ballot as provided in Section 19-4. The ballot envelope shall
4 be the same as that prescribed in Section 19-5 for physically
5 disabled voters, and the manner of voting and returning the
6 ballot shall be the same as that provided in this Article for
7 other vote by mail ballots, except that a statement to be
8 subscribed to by the voter but which need not be sworn to shall
9 be placed on the ballot envelope in lieu of the affidavit
10 prescribed by Section 19-5.

11 Any person who knowingly subscribes to a false statement in
12 connection with voting under this Section shall be guilty of a
13 Class A misdemeanor.

14 For the purposes of this Section, "nursing home resident"
15 includes a resident of (i) a federally operated veterans' home,
16 hospital, or facility located in Illinois or (ii) a facility
17 licensed under the ID/DD Community Care Act, the MC/DD Act, or
18 the Specialized Mental Health Rehabilitation Act of 2013. For
19 the purposes of this Section, "federally operated veterans'
20 home, hospital, or facility" means the long-term care
21 facilities at the Jesse Brown VA Medical Center, Illiana Health
22 Care System, Edward Hines, Jr. VA Hospital, Marion VA Medical
23 Center, and Captain James A. Lovell Federal Health Care Center.
24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
25 eff. 1-1-12; 97-813, eff. 7-13-12; 97-1064, eff. 1-1-13;
26 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

1 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

2 (Text of Section before amendment by P.A. 98-1171)

3 Sec. 19-12.2. Voting by physically incapacitated electors
4 who have made proper application to the election authority not
5 later than 5 days before the regular primary and general
6 election of 1980 and before each election thereafter shall be
7 conducted on the premises of (i) federally operated veterans'
8 homes, hospitals, and facilities located in Illinois or (ii)
9 facilities licensed or certified pursuant to the Nursing Home
10 Care Act, the Specialized Mental Health Rehabilitation Act of
11 2013, or the ID/DD Community Care Act for the sole benefit of
12 residents of such homes, hospitals, and facilities. For the
13 purposes of this Section, "federally operated veterans' home,
14 hospital, or facility" means the long-term care facilities at
15 the Jesse Brown VA Medical Center, Illiana Health Care System,
16 Edward Hines, Jr. VA Hospital, Marion VA Medical Center, and
17 Captain James A. Lovell Federal Health Care Center. Such voting
18 shall be conducted during any continuous period sufficient to
19 allow all applicants to cast their ballots between the hours of
20 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or
21 Monday immediately preceding the regular election. This
22 absentee voting on one of said days designated by the election
23 authority shall be supervised by two election judges who must
24 be selected by the election authority in the following order of
25 priority: (1) from the panel of judges appointed for the

1 precinct in which such home, hospital, or facility is located,
2 or from a panel of judges appointed for any other precinct
3 within the jurisdiction of the election authority in the same
4 ward or township, as the case may be, in which the home,
5 hospital, or facility is located or, only in the case where a
6 judge or judges from the precinct, township or ward are
7 unavailable to serve, (3) from a panel of judges appointed for
8 any other precinct within the jurisdiction of the election
9 authority. The two judges shall be from different political
10 parties. Not less than 30 days before each regular election,
11 the election authority shall have arranged with the chief
12 administrative officer of each home, hospital, or facility in
13 his or its election jurisdiction a mutually convenient time
14 period on the Friday, Saturday, Sunday or Monday immediately
15 preceding the election for such voting on the premises of the
16 home, hospital, or facility and shall post in a prominent place
17 in his or its office a notice of the agreed day and time period
18 for conducting such voting at each home, hospital, or facility;
19 provided that the election authority shall not later than noon
20 on the Thursday before the election also post the names and
21 addresses of those homes, hospitals, and facilities from which
22 no applications were received and in which no supervised
23 absentee voting will be conducted. All provisions of this Code
24 applicable to pollwatchers shall be applicable herein. To the
25 maximum extent feasible, voting booths or screens shall be
26 provided to insure the privacy of the voter. Voting procedures

1 shall be as described in Article 17 of this Code, except that
2 ballots shall be treated as absentee ballots and shall not be
3 counted until the close of the polls on the following day.
4 After the last voter has concluded voting, the judges shall
5 seal the ballots in an envelope and affix their signatures
6 across the flap of the envelope. Immediately thereafter, the
7 judges shall bring the sealed envelope to the office of the
8 election authority who shall deliver such ballots to the
9 election authority's central ballot counting location prior to
10 the closing of the polls on the day of election. The judges of
11 election shall also report to the election authority the name
12 of any applicant in the home, hospital, or facility who, due to
13 unforeseen circumstance or condition or because of a religious
14 holiday, was unable to vote. In this event, the election
15 authority may appoint a qualified person from his or its staff
16 to deliver the ballot to such applicant on the day of election.
17 This staff person shall follow the same procedures prescribed
18 for judges conducting absentee voting in such homes, hospitals,
19 or facilities and shall return the ballot to the central ballot
20 counting location before the polls close. However, if the home,
21 hospital, or facility from which the application was made is
22 also used as a regular precinct polling place for that voter,
23 voting procedures heretofore prescribed may be implemented by 2
24 of the election judges of opposite party affiliation assigned
25 to that polling place during the hours of voting on the day of
26 the election. Judges of election shall be compensated not less

1 than \$25.00 for conducting absentee voting in such homes,
2 hospitals, or facilities.

3 Not less than 120 days before each regular election, the
4 Department of Public Health shall certify to the State Board of
5 Elections a list of the facilities licensed or certified
6 pursuant to the Nursing Home Care Act, the Specialized Mental
7 Health Rehabilitation Act of 2013, or the ID/DD Community Care
8 Act. The lists shall indicate the approved bed capacity and the
9 name of the chief administrative officer of each such home,
10 hospital, or facility, and the State Board of Elections shall
11 certify the same to the appropriate election authority within
12 20 days thereafter.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
14 eff. 1-1-12; 97-813, eff. 7-13-12; 98-104, eff. 7-22-13.)

15 (Text of Section after amendment by P.A. 98-1171)

16 Sec. 19-12.2. Voting by physically incapacitated electors
17 who have made proper application to the election authority not
18 later than 5 days before the regular primary and general
19 election of 1980 and before each election thereafter shall be
20 conducted on the premises of (i) federally operated veterans'
21 homes, hospitals, and facilities located in Illinois or (ii)
22 facilities licensed or certified pursuant to the Nursing Home
23 Care Act, the Specialized Mental Health Rehabilitation Act of
24 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act for the
25 sole benefit of residents of such homes, hospitals, and

1 facilities. For the purposes of this Section, "federally
2 operated veterans' home, hospital, or facility" means the
3 long-term care facilities at the Jesse Brown VA Medical Center,
4 Illiana Health Care System, Edward Hines, Jr. VA Hospital,
5 Marion VA Medical Center, and Captain James A. Lovell Federal
6 Health Care Center. Such voting shall be conducted during any
7 continuous period sufficient to allow all applicants to cast
8 their ballots between the hours of 9 a.m. and 7 p.m. either on
9 the Friday, Saturday, Sunday or Monday immediately preceding
10 the regular election. This vote by mail voting on one of said
11 days designated by the election authority shall be supervised
12 by two election judges who must be selected by the election
13 authority in the following order of priority: (1) from the
14 panel of judges appointed for the precinct in which such home,
15 hospital, or facility is located, or from a panel of judges
16 appointed for any other precinct within the jurisdiction of the
17 election authority in the same ward or township, as the case
18 may be, in which the home, hospital, or facility is located or,
19 only in the case where a judge or judges from the precinct,
20 township or ward are unavailable to serve, (3) from a panel of
21 judges appointed for any other precinct within the jurisdiction
22 of the election authority. The two judges shall be from
23 different political parties. Not less than 30 days before each
24 regular election, the election authority shall have arranged
25 with the chief administrative officer of each home, hospital,
26 or facility in his or its election jurisdiction a mutually

1 convenient time period on the Friday, Saturday, Sunday or
2 Monday immediately preceding the election for such voting on
3 the premises of the home, hospital, or facility and shall post
4 in a prominent place in his or its office a notice of the
5 agreed day and time period for conducting such voting at each
6 home, hospital, or facility; provided that the election
7 authority shall not later than noon on the Thursday before the
8 election also post the names and addresses of those homes,
9 hospitals, and facilities from which no applications were
10 received and in which no supervised vote by mail voting will be
11 conducted. All provisions of this Code applicable to
12 pollwatchers shall be applicable herein. To the maximum extent
13 feasible, voting booths or screens shall be provided to insure
14 the privacy of the voter. Voting procedures shall be as
15 described in Article 17 of this Code, except that ballots shall
16 be treated as vote by mail ballots and shall not be counted
17 until the close of the polls on the following day. After the
18 last voter has concluded voting, the judges shall seal the
19 ballots in an envelope and affix their signatures across the
20 flap of the envelope. Immediately thereafter, the judges shall
21 bring the sealed envelope to the office of the election
22 authority who shall deliver such ballots to the election
23 authority's central ballot counting location prior to the
24 closing of the polls on the day of election. The judges of
25 election shall also report to the election authority the name
26 of any applicant in the home, hospital, or facility who, due to

1 unforeseen circumstance or condition or because of a religious
2 holiday, was unable to vote. In this event, the election
3 authority may appoint a qualified person from his or its staff
4 to deliver the ballot to such applicant on the day of election.
5 This staff person shall follow the same procedures prescribed
6 for judges conducting vote by mail voting in such homes,
7 hospitals, or facilities and shall return the ballot to the
8 central ballot counting location before the polls close.
9 However, if the home, hospital, or facility from which the
10 application was made is also used as a regular precinct polling
11 place for that voter, voting procedures heretofore prescribed
12 may be implemented by 2 of the election judges of opposite
13 party affiliation assigned to that polling place during the
14 hours of voting on the day of the election. Judges of election
15 shall be compensated not less than \$25.00 for conducting vote
16 by mail voting in such homes, hospitals, or facilities.

17 Not less than 120 days before each regular election, the
18 Department of Public Health shall certify to the State Board of
19 Elections a list of the facilities licensed or certified
20 pursuant to the Nursing Home Care Act, the Specialized Mental
21 Health Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
22 Act, or the MC/DD Act. The lists shall indicate the approved
23 bed capacity and the name of the chief administrative officer
24 of each such home, hospital, or facility, and the State Board
25 of Elections shall certify the same to the appropriate election
26 authority within 20 days thereafter.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
2 eff. 1-1-12; 97-813, eff. 7-13-12; 98-104, eff. 7-22-13;
3 98-1171, eff. 6-1-15.)

4 Section 10. The Illinois Act on the Aging is amended by
5 changing Sections 4.04 and 4.08 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program. The purpose of
8 the Long Term Care Ombudsman Program is to ensure that older
9 persons and persons with disabilities receive quality
10 services. This is accomplished by providing advocacy services
11 for residents of long term care facilities and participants
12 receiving home care and community-based care. Managed care is
13 increasingly becoming the vehicle for delivering health and
14 long-term services and supports to seniors and persons with
15 disabilities, including dual eligible participants. The
16 additional ombudsman authority will allow advocacy services to
17 be provided to Illinois participants for the first time and
18 will produce a cost savings for the State of Illinois by
19 supporting the rebalancing efforts of the Patient Protection
20 and Affordable Care Act.

21 (a) Long Term Care Ombudsman Program. The Department shall
22 establish a Long Term Care Ombudsman Program, through the
23 Office of State Long Term Care Ombudsman ("the Office"), in
24 accordance with the provisions of the Older Americans Act of

1 1965, as now or hereafter amended. The Long Term Care Ombudsman
2 Program is authorized, subject to sufficient appropriations,
3 to advocate on behalf of older persons and persons with
4 disabilities residing in their own homes or community-based
5 settings, relating to matters which may adversely affect the
6 health, safety, welfare, or rights of such individuals.

7 (b) Definitions. As used in this Section, unless the
8 context requires otherwise:

9 (1) "Access" means the right to:

10 (i) Enter any long term care facility or assisted
11 living or shared housing establishment or supportive
12 living facility;

13 (ii) Communicate privately and without restriction
14 with any resident, regardless of age, who consents to
15 the communication;

16 (iii) Seek consent to communicate privately and
17 without restriction with any participant or resident,
18 regardless of age;

19 (iv) Inspect the clinical and other records of a
20 participant or resident, regardless of age, with the
21 express written consent of the participant or
22 resident;

23 (v) Observe all areas of the long term care
24 facility or supportive living facilities, assisted
25 living or shared housing establishment except the
26 living area of any resident who protests the

1 observation; and

2 (vi) Subject to permission of the participant or
3 resident requesting services or his or her
4 representative, enter a home or community-based
5 setting.

6 (2) "Long Term Care Facility" means (i) any facility as
7 defined by Section 1-113 of the Nursing Home Care Act, as
8 now or hereafter amended; ~~and~~ (ii) any skilled nursing
9 facility or a nursing facility which meets the requirements
10 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
11 (b), (c), and (d) of the Social Security Act, as now or
12 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
13 and 42 U.S.C. 1396r(a), (b), (c), and (d)); (iii) and any
14 facility as defined by Section 1-113 of the ID/DD MR/DD
15 Community Care Act, as now or hereafter amended; and (iv)
16 any facility as defined by Section 1-113 of MC/DD Act, as
17 now or hereafter amended.

18 (2.5) "Assisted living establishment" and "shared
19 housing establishment" have the meanings given those terms
20 in Section 10 of the Assisted Living and Shared Housing
21 Act.

22 (2.7) "Supportive living facility" means a facility
23 established under Section 5-5.01a of the Illinois Public
24 Aid Code.

25 (2.8) "Community-based setting" means any place of
26 abode other than an individual's private home.

1 (3) "State Long Term Care Ombudsman" means any person
2 employed by the Department to fulfill the requirements of
3 the Office of State Long Term Care Ombudsman as required
4 under the Older Americans Act of 1965, as now or hereafter
5 amended, and Departmental policy.

6 (3.1) "Ombudsman" means any designated representative
7 of the State Long Term Care Ombudsman Program; provided
8 that the representative, whether he is paid for or
9 volunteers his ombudsman services, shall be qualified and
10 designated by the Office to perform the duties of an
11 ombudsman as specified by the Department in rules and in
12 accordance with the provisions of the Older Americans Act
13 of 1965, as now or hereafter amended.

14 (4) "Participant" means an older person aged 60 or over
15 or an adult with a disability aged 18 through 59 who is
16 eligible for services under any of the following:

17 (i) A medical assistance waiver administered by
18 the State.

19 (ii) A managed care organization providing care
20 coordination and other services to seniors and persons
21 with disabilities.

22 (5) "Resident" means an older person aged 60 or over or
23 an adult with a disability aged 18 through 59 who resides
24 in a long-term care facility.

25 (c) Ombudsman; rules. The Office of State Long Term Care
26 Ombudsman shall be composed of at least one full-time ombudsman

1 and shall include a system of designated regional long term
2 care ombudsman programs. Each regional program shall be
3 designated by the State Long Term Care Ombudsman as a
4 subdivision of the Office and any representative of a regional
5 program shall be treated as a representative of the Office.

6 The Department, in consultation with the Office, shall
7 promulgate administrative rules in accordance with the
8 provisions of the Older Americans Act of 1965, as now or
9 hereafter amended, to establish the responsibilities of the
10 Department and the Office of State Long Term Care Ombudsman and
11 the designated regional Ombudsman programs. The administrative
12 rules shall include the responsibility of the Office and
13 designated regional programs to investigate and resolve
14 complaints made by or on behalf of residents of long term care
15 facilities, supportive living facilities, and assisted living
16 and shared housing establishments, and participants residing
17 in their own homes or community-based settings, including the
18 option to serve residents and participants under the age of 60,
19 relating to actions, inaction, or decisions of providers, or
20 their representatives, of such facilities and establishments,
21 of public agencies, or of social services agencies, which may
22 adversely affect the health, safety, welfare, or rights of such
23 residents and participants. The Office and designated regional
24 programs may represent all residents and participants, but are
25 not required by this Act to represent persons under 60 years of
26 age, except to the extent required by federal law. When

1 necessary and appropriate, representatives of the Office shall
2 refer complaints to the appropriate regulatory State agency.
3 The Department, in consultation with the Office, shall
4 cooperate with the Department of Human Services and other State
5 agencies in providing information and training to designated
6 regional long term care ombudsman programs about the
7 appropriate assessment and treatment (including information
8 about appropriate supportive services, treatment options, and
9 assessment of rehabilitation potential) of the participants
10 they serve.

11 The State Long Term Care Ombudsman and all other ombudsmen,
12 as defined in paragraph (3.1) of subsection (b) must submit to
13 background checks under the Health Care Worker Background Check
14 Act and receive training, as prescribed by the Illinois
15 Department on Aging, before visiting facilities, private
16 homes, or community-based settings. The training must include
17 information specific to assisted living establishments,
18 supportive living facilities, shared housing establishments,
19 private homes, and community-based settings and to the rights
20 of residents and participants guaranteed under the
21 corresponding Acts and administrative rules.

22 (c-5) Consumer Choice Information Reports. The Office
23 shall:

24 (1) In collaboration with the Attorney General, create
25 a Consumer Choice Information Report form to be completed
26 by all licensed long term care facilities to aid

1 Illinoisans and their families in making informed choices
2 about long term care. The Office shall create a Consumer
3 Choice Information Report for each type of licensed long
4 term care facility. The Office shall collaborate with the
5 Attorney General and the Department of Human Services to
6 create a Consumer Choice Information Report form for
7 facilities licensed under the ID/DD ~~MR/DD~~ Community Care
8 Act or the MC/DD Act.

9 (2) Develop a database of Consumer Choice Information
10 Reports completed by licensed long term care facilities
11 that includes information in the following consumer
12 categories:

13 (A) Medical Care, Services, and Treatment.

14 (B) Special Services and Amenities.

15 (C) Staffing.

16 (D) Facility Statistics and Resident Demographics.

17 (E) Ownership and Administration.

18 (F) Safety and Security.

19 (G) Meals and Nutrition.

20 (H) Rooms, Furnishings, and Equipment.

21 (I) Family, Volunteer, and Visitation Provisions.

22 (3) Make this information accessible to the public,
23 including on the Internet by means of a hyperlink labeled
24 "Resident's Right to Know" on the Office's World Wide Web
25 home page. Information about facilities licensed under the
26 ID/DD ~~MR/DD~~ Community Care Act or the MC/DD Act shall be

1 made accessible to the public by the Department of Human
2 Services, including on the Internet by means of a hyperlink
3 labeled "Resident's and Families' Right to Know" on the
4 Department of Human Services' "For Customers" website.

5 (4) Have the authority, with the Attorney General, to
6 verify that information provided by a facility is accurate.

7 (5) Request a new report from any licensed facility
8 whenever it deems necessary.

9 (6) Include in the Office's Consumer Choice
10 Information Report for each type of licensed long term care
11 facility additional information on each licensed long term
12 care facility in the State of Illinois, including
13 information regarding each facility's compliance with the
14 relevant State and federal statutes, rules, and standards;
15 customer satisfaction surveys; and information generated
16 from quality measures developed by the Centers for Medicare
17 and Medicaid Services.

18 (d) Access and visitation rights.

19 (1) In accordance with subparagraphs (A) and (E) of
20 paragraph (3) of subsection (c) of Section 1819 and
21 subparagraphs (A) and (E) of paragraph (3) of subsection
22 (c) of Section 1919 of the Social Security Act, as now or
23 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
24 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
25 Older Americans Act of 1965, as now or hereafter amended
26 (42 U.S.C. 3058f), a long term care facility, supportive

1 living facility, assisted living establishment, and shared
2 housing establishment must:

3 (i) permit immediate access to any resident,
4 regardless of age, by a designated ombudsman;

5 (ii) permit representatives of the Office, with
6 the permission of the resident's legal representative
7 or legal guardian, to examine a resident's clinical and
8 other records, regardless of the age of the resident,
9 and if a resident is unable to consent to such review,
10 and has no legal guardian, permit representatives of
11 the Office appropriate access, as defined by the
12 Department, in consultation with the Office, in
13 administrative rules, to the resident's records; and

14 (iii) permit a representative of the Program to
15 communicate privately and without restriction with any
16 participant who consents to the communication
17 regardless of the consent of, or withholding of consent
18 by, a legal guardian or an agent named in a power of
19 attorney executed by the participant.

20 (2) Each long term care facility, supportive living
21 facility, assisted living establishment, and shared
22 housing establishment shall display, in multiple,
23 conspicuous public places within the facility accessible
24 to both visitors and residents and in an easily readable
25 format, the address and phone number of the Office of the
26 Long Term Care Ombudsman, in a manner prescribed by the

1 Office.

2 (e) Immunity. An ombudsman or any representative of the
3 Office participating in the good faith performance of his or
4 her official duties shall have immunity from any liability
5 (civil, criminal or otherwise) in any proceedings (civil,
6 criminal or otherwise) brought as a consequence of the
7 performance of his official duties.

8 (f) Business offenses.

9 (1) No person shall:

10 (i) Intentionally prevent, interfere with, or
11 attempt to impede in any way any representative of the
12 Office in the performance of his official duties under
13 this Act and the Older Americans Act of 1965; or

14 (ii) Intentionally retaliate, discriminate
15 against, or effect reprisals against any long term care
16 facility resident or employee for contacting or
17 providing information to any representative of the
18 Office.

19 (2) A violation of this Section is a business offense,
20 punishable by a fine not to exceed \$501.

21 (3) The State Long Term Care Ombudsman shall notify the
22 State's Attorney of the county in which the long term care
23 facility, supportive living facility, or assisted living
24 or shared housing establishment is located, or the Attorney
25 General, of any violations of this Section.

26 (g) Confidentiality of records and identities. The

1 Department shall establish procedures for the disclosure by the
2 State Ombudsman or the regional ombudsmen entities of files
3 maintained by the program. The procedures shall provide that
4 the files and records may be disclosed only at the discretion
5 of the State Long Term Care Ombudsman or the person designated
6 by the State Ombudsman to disclose the files and records, and
7 the procedures shall prohibit the disclosure of the identity of
8 any complainant, resident, participant, witness, or employee
9 of a long term care provider unless:

10 (1) the complainant, resident, participant, witness,
11 or employee of a long term care provider or his or her
12 legal representative consents to the disclosure and the
13 consent is in writing;

14 (2) the complainant, resident, participant, witness,
15 or employee of a long term care provider gives consent
16 orally; and the consent is documented contemporaneously in
17 writing in accordance with such requirements as the
18 Department shall establish; or

19 (3) the disclosure is required by court order.

20 (h) Legal representation. The Attorney General shall
21 provide legal representation to any representative of the
22 Office against whom suit or other legal action is brought in
23 connection with the performance of the representative's
24 official duties, in accordance with the State Employee
25 Indemnification Act.

26 (i) Treatment by prayer and spiritual means. Nothing in

1 this Act shall be construed to authorize or require the medical
2 supervision, regulation or control of remedial care or
3 treatment of any resident in a long term care facility operated
4 exclusively by and for members or adherents of any church or
5 religious denomination the tenets and practices of which
6 include reliance solely upon spiritual means through prayer for
7 healing.

8 (j) The Long Term Care Ombudsman Fund is created as a
9 special fund in the State treasury to receive moneys for the
10 express purposes of this Section. All interest earned on moneys
11 in the fund shall be credited to the fund. Moneys contained in
12 the fund shall be used to support the purposes of this Section.

13 (k) Each Regional Ombudsman may, in accordance with rules
14 promulgated by the Office, establish a multi-disciplinary team
15 to act in an advisory role for the purpose of providing
16 professional knowledge and expertise in handling complex
17 abuse, neglect, and advocacy issues involving participants.
18 Each multi-disciplinary team may consist of one or more
19 volunteer representatives from any combination of at least 7
20 members from the following professions: banking or finance;
21 disability care; health care; pharmacology; law; law
22 enforcement; emergency responder; mental health care; clergy;
23 coroner or medical examiner; substance abuse; domestic
24 violence; sexual assault; or other related fields. To support
25 multi-disciplinary teams in this role, law enforcement
26 agencies and coroners or medical examiners shall supply records

1 as may be requested in particular cases. The Regional
2 Ombudsman, or his or her designee, of the area in which the
3 multi-disciplinary team is created shall be the facilitator of
4 the multi-disciplinary team.

5 (Source: P.A. 97-38, eff. 6-28-11; 98-380, eff. 8-16-13;
6 98-989, eff. 1-1-15.)

7 (20 ILCS 105/4.08)

8 Sec. 4.08. Rural and small town meals program. Subject to
9 appropriation, the Department may establish a program to ensure
10 the availability of congregate or home-delivered meals in
11 communities with populations of under 5,000 that are not
12 located within the large urban counties of Cook, DuPage, Kane,
13 Lake, or Will.

14 The Department may meet these requirements by entering into
15 agreements with Area Agencies on Aging or Department designees,
16 which shall in turn enter into grants or contractual agreements
17 with such local entities as restaurants, cafes, churches,
18 facilities licensed under the Nursing Home Care Act, the ID/DD
19 Community Care Act, the MC/DD Act, the Assisted Living and
20 Shared Housing Act, or the Hospital Licensing Act, facilities
21 certified by the Department of Healthcare and Family Services,
22 senior centers, or Older American Act designated nutrition
23 service providers.

24 First consideration shall be given to entities that can
25 cost effectively meet the needs of seniors in the community by

1 preparing the food locally.

2 In no instance shall funds provided pursuant to this
3 Section be used to replace funds allocated to a given area or
4 program as of the effective date of this amendatory Act of the
5 95th General Assembly.

6 The Department shall establish guidelines and standards by
7 administrative rule, which shall include submission of an
8 expenditure plan by the recipient of the funds.

9 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

10 Section 15. The Mental Health and Developmental
11 Disabilities Administrative Act is amended by changing Section
12 15 as follows:

13 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

14 Sec. 15. Before any person is released from a facility
15 operated by the State pursuant to an absolute discharge or a
16 conditional discharge from hospitalization under this Act, the
17 facility director of the facility in which such person is
18 hospitalized shall determine that such person is not currently
19 in need of hospitalization and:

20 (a) is able to live independently in the community; or

21 (b) requires further oversight and supervisory care
22 for which arrangements have been made with responsible
23 relatives or supervised residential program approved by
24 the Department; or

1 (c) requires further personal care or general
2 oversight as defined by the ID/DD Community Care Act, the
3 MC/DD Act, or the Specialized Mental Health Rehabilitation
4 Act of 2013, for which placement arrangements have been
5 made with a suitable family home or other licensed facility
6 approved by the Department under this Section; or

7 (d) requires community mental health services for
8 which arrangements have been made with a community mental
9 health provider in accordance with criteria, standards,
10 and procedures promulgated by rule.

11 Such determination shall be made in writing and shall
12 become a part of the facility record of such absolutely or
13 conditionally discharged person. When the determination
14 indicates that the condition of the person to be granted an
15 absolute discharge or a conditional discharge is described
16 under subparagraph (c) or (d) of this Section, the name and
17 address of the continuing care facility or home to which such
18 person is to be released shall be entered in the facility
19 record. Where a discharge from a mental health facility is made
20 under subparagraph (c), the Department shall assign the person
21 so discharged to an existing community based not-for-profit
22 agency for participation in day activities suitable to the
23 person's needs, such as but not limited to social and
24 vocational rehabilitation, and other recreational, educational
25 and financial activities unless the community based
26 not-for-profit agency is unqualified to accept such

1 assignment. Where the clientele of any not-for-profit agency
2 increases as a result of assignments under this amendatory Act
3 of 1977 by more than 3% over the prior year, the Department
4 shall fully reimburse such agency for the costs of providing
5 services to such persons in excess of such 3% increase. The
6 Department shall keep written records detailing how many
7 persons have been assigned to a community based not-for-profit
8 agency and how many persons were not so assigned because the
9 community based agency was unable to accept the assignments, in
10 accordance with criteria, standards, and procedures
11 promulgated by rule. Whenever a community based agency is found
12 to be unable to accept the assignments, the name of the agency
13 and the reason for the finding shall be included in the report.

14 Insofar as desirable in the interests of the former
15 recipient, the facility, program or home in which the
16 discharged person is to be placed shall be located in or near
17 the community in which the person resided prior to
18 hospitalization or in the community in which the person's
19 family or nearest next of kin presently reside. Placement of
20 the discharged person in facilities, programs or homes located
21 outside of this State shall not be made by the Department
22 unless there are no appropriate facilities, programs or homes
23 available within this State. Out-of-state placements shall be
24 subject to return of recipients so placed upon the availability
25 of facilities, programs or homes within this State to
26 accommodate these recipients, except where placement in a

1 contiguous state results in locating a recipient in a facility
2 or program closer to the recipient's home or family. If an
3 appropriate facility or program becomes available equal to or
4 closer to the recipient's home or family, the recipient shall
5 be returned to and placed at the appropriate facility or
6 program within this State.

7 To place any person who is under a program of the
8 Department at board in a suitable family home or in such other
9 facility or program as the Department may consider desirable.
10 The Department may place in licensed nursing homes, sheltered
11 care homes, or homes for the aged those persons whose
12 behavioral manifestations and medical and nursing care needs
13 are such as to be substantially indistinguishable from persons
14 already living in such facilities. Prior to any placement by
15 the Department under this Section, a determination shall be
16 made by the personnel of the Department, as to the capability
17 and suitability of such facility to adequately meet the needs
18 of the person to be discharged. When specialized programs are
19 necessary in order to enable persons in need of supervised
20 living to develop and improve in the community, the Department
21 shall place such persons only in specialized residential care
22 facilities which shall meet Department standards including
23 restricted admission policy, special staffing and programming
24 for social and vocational rehabilitation, in addition to the
25 requirements of the appropriate State licensing agency. The
26 Department shall not place any new person in a facility the

1 license of which has been revoked or not renewed on grounds of
2 inadequate programming, staffing, or medical or adjunctive
3 services, regardless of the pendency of an action for
4 administrative review regarding such revocation or failure to
5 renew. Before the Department may transfer any person to a
6 licensed nursing home, sheltered care home or home for the aged
7 or place any person in a specialized residential care facility
8 the Department shall notify the person to be transferred, or a
9 responsible relative of such person, in writing, at least 30
10 days before the proposed transfer, with respect to all the
11 relevant facts concerning such transfer, except in cases of
12 emergency when such notice is not required. If either the
13 person to be transferred or a responsible relative of such
14 person objects to such transfer, in writing to the Department,
15 at any time after receipt of notice and before the transfer,
16 the facility director of the facility in which the person was a
17 recipient shall immediately schedule a hearing at the facility
18 with the presence of the facility director, the person who
19 objected to such proposed transfer, and a psychiatrist who is
20 familiar with the record of the person to be transferred. Such
21 person to be transferred or a responsible relative may be
22 represented by such counsel or interested party as he may
23 appoint, who may present such testimony with respect to the
24 proposed transfer. Testimony presented at such hearing shall
25 become a part of the facility record of the
26 person-to-be-transferred. The record of testimony shall be

1 held in the person-to-be-transferred's record in the central
2 files of the facility. If such hearing is held a transfer may
3 only be implemented, if at all, in accordance with the results
4 of such hearing. Within 15 days after such hearing the facility
5 director shall deliver his findings based on the record of the
6 case and the testimony presented at the hearing, by registered
7 or certified mail, to the parties to such hearing. The findings
8 of the facility director shall be deemed a final administrative
9 decision of the Department. For purposes of this Section, "case
10 of emergency" means those instances in which the health of the
11 person to be transferred is imperiled and the most appropriate
12 mental health care or medical care is available at a licensed
13 nursing home, sheltered care home or home for the aged or a
14 specialized residential care facility.

15 Prior to placement of any person in a facility under this
16 Section the Department shall ensure that an appropriate
17 training plan for staff is provided by the facility. Said
18 training may include instruction and demonstration by
19 Department personnel qualified in the area of mental illness or
20 intellectual disabilities, as applicable to the person to be
21 placed. Training may be given both at the facility from which
22 the recipient is transferred and at the facility receiving the
23 recipient, and may be available on a continuing basis
24 subsequent to placement. In a facility providing services to
25 former Department recipients, training shall be available as
26 necessary for facility staff. Such training will be on a

1 continuing basis as the needs of the facility and recipients
2 change and further training is required.

3 The Department shall not place any person in a facility
4 which does not have appropriately trained staff in sufficient
5 numbers to accommodate the recipient population already at the
6 facility. As a condition of further or future placements of
7 persons, the Department shall require the employment of
8 additional trained staff members at the facility where said
9 persons are to be placed. The Secretary, or his or her
10 designate, shall establish written guidelines for placement of
11 persons in facilities under this Act. The Department shall keep
12 written records detailing which facilities have been
13 determined to have staff who have been appropriately trained by
14 the Department and all training which it has provided or
15 required under this Section.

16 Bills for the support for a person boarded out shall be
17 payable monthly out of the proper maintenance funds and shall
18 be audited as any other accounts of the Department. If a person
19 is placed in a facility or program outside the Department, the
20 Department may pay the actual costs of residence, treatment or
21 maintenance in such facility and may collect such actual costs
22 or a portion thereof from the recipient or the estate of a
23 person placed in accordance with this Section.

24 Other than those placed in a family home the Department
25 shall cause all persons who are placed in a facility, as
26 defined by the ID/DD Community Care Act, the MC/DD Act, or the

1 Specialized Mental Health Rehabilitation Act of 2013, or in
2 designated community living situations or programs, to be
3 visited at least once during the first month following
4 placement, and once every month thereafter for the first year
5 following placement when indicated, but at least quarterly.
6 After the first year, the Department shall determine at what
7 point the appropriate licensing entity for the facility or
8 designated community living situation or program will assume
9 the responsibility of ensuring that appropriate services are
10 being provided to the resident. Once that responsibility is
11 assumed, the Department may discontinue such visits. If a long
12 term care facility has periodic care plan conferences, the
13 visitor may participate in those conferences, if such
14 participation is approved by the resident or the resident's
15 guardian. Visits shall be made by qualified and trained
16 Department personnel, or their designee, in the area of mental
17 health or developmental disabilities applicable to the person
18 visited, and shall be made on a more frequent basis when
19 indicated. The Department may not use as designee any personnel
20 connected with or responsible to the representatives of any
21 facility in which persons who have been transferred under this
22 Section are placed. In the course of such visit there shall be
23 consideration of the following areas, but not limited thereto:
24 effects of transfer on physical and mental health of the
25 person, sufficiency of nursing care and medical coverage
26 required by the person, sufficiency of staff personnel and

1 ability to provide basic care for the person, social,
2 recreational and programmatic activities available for the
3 person, and other appropriate aspects of the person's
4 environment.

5 A report containing the above observations shall be made to
6 the Department, to the licensing agency, and to any other
7 appropriate agency subsequent to each visitation. The report
8 shall contain recommendations to improve the care and treatment
9 of the resident, as necessary, which shall be reviewed by the
10 facility's interdisciplinary team and the resident or the
11 resident's legal guardian.

12 Upon the complaint of any person placed in accordance with
13 this Section or any responsible citizen or upon discovery that
14 such person has been abused, neglected, or improperly cared
15 for, or that the placement does not provide the type of care
16 required by the recipient's current condition, the Department
17 immediately shall investigate, and determine if the
18 well-being, health, care, or safety of any person is affected
19 by any of the above occurrences, and if any one of the above
20 occurrences is verified, the Department shall remove such
21 person at once to a facility of the Department or to another
22 facility outside the Department, provided such person's needs
23 can be met at said facility. The Department may also provide
24 any person placed in accordance with this Section who is
25 without available funds, and who is permitted to engage in
26 employment outside the facility, such sums for the

1 transportation, and other expenses as may be needed by him
2 until he receives his wages for such employment.

3 The Department shall promulgate rules and regulations
4 governing the purchase of care for persons who are wards of or
5 who are receiving services from the Department. Such rules and
6 regulations shall apply to all monies expended by any agency of
7 the State of Illinois for services rendered by any person,
8 corporate entity, agency, governmental agency or political
9 subdivision whether public or private outside of the Department
10 whether payment is made through a contractual, per-diem or
11 other arrangement. No funds shall be paid to any person,
12 corporation, agency, governmental entity or political
13 subdivision without compliance with such rules and
14 regulations.

15 The rules and regulations governing purchase of care shall
16 describe categories and types of service deemed appropriate for
17 purchase by the Department.

18 Any provider of services under this Act may elect to
19 receive payment for those services, and the Department is
20 authorized to arrange for that payment, by means of direct
21 deposit transmittals to the service provider's account
22 maintained at a bank, savings and loan association, or other
23 financial institution. The financial institution shall be
24 approved by the Department, and the deposits shall be in
25 accordance with rules and regulations adopted by the
26 Department.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-104, eff. 7-22-13.)

3 Section 20. The Department of Public Health Powers and
4 Duties Law of the Civil Administrative Code of Illinois is
5 amended by changing Sections 2310-550, 2310-560, 2310-565, and
6 2310-625 as follows:

7 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

8 Sec. 2310-550. Long-term care facilities. The Department
9 may perform, in all long-term care facilities as defined in the
10 Nursing Home Care Act, all facilities as defined in the
11 Specialized Mental Health Rehabilitation Act of 2013, ~~and~~ all
12 facilities as defined in the ID/DD Community Care Act, and all
13 facilities as defined in the MC/DD Act, all inspection,
14 evaluation, certification, and inspection of care duties that
15 the federal government may require the State of Illinois to
16 perform or have performed as a condition of participation in
17 any programs under Title XVIII or Title XIX of the federal
18 Social Security Act.

19 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
20 eff. 7-13-12; 98-104, eff. 7-22-13.)

21 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

22 Sec. 2310-560. Advisory committees concerning construction
23 of facilities.

1 (a) The Director shall appoint an advisory committee. The
2 committee shall be established by the Department by rule. The
3 Director and the Department shall consult with the advisory
4 committee concerning the application of building codes and
5 Department rules related to those building codes to facilities
6 under the Ambulatory Surgical Treatment Center Act, the Nursing
7 Home Care Act, the Specialized Mental Health Rehabilitation Act
8 of 2013, ~~and~~ the ID/DD Community Care Act, and the MC/DD Act.

9 (b) The Director shall appoint an advisory committee to
10 advise the Department and to conduct informal dispute
11 resolution concerning the application of building codes for new
12 and existing construction and related Department rules and
13 standards under the Hospital Licensing Act, including without
14 limitation rules and standards for (i) design and construction,
15 (ii) engineering and maintenance of the physical plant, site,
16 equipment, and systems (heating, cooling, electrical,
17 ventilation, plumbing, water, sewer, and solid waste
18 disposal), and (iii) fire and safety. The advisory committee
19 shall be composed of all of the following members:

20 (1) The chairperson or an elected representative from
21 the Hospital Licensing Board under the Hospital Licensing
22 Act.

23 (2) Two health care architects with a minimum of 10
24 years of experience in institutional design and building
25 code analysis.

26 (3) Two engineering professionals (one mechanical and

1 one electrical) with a minimum of 10 years of experience in
2 institutional design and building code analysis.

3 (4) One commercial interior design professional with a
4 minimum of 10 years of experience.

5 (5) Two representatives from provider associations.

6 (6) The Director or his or her designee, who shall
7 serve as the committee moderator.

8 Appointments shall be made with the concurrence of the
9 Hospital Licensing Board. The committee shall submit
10 recommendations concerning the application of building codes
11 and related Department rules and standards to the Hospital
12 Licensing Board for review and comment prior to submission to
13 the Department. The committee shall submit recommendations
14 concerning informal dispute resolution to the Director. The
15 Department shall provide per diem and travel expenses to the
16 committee members.

17 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
18 eff. 7-13-12; 98-104, eff. 7-22-13.)

19 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

20 Sec. 2310-565. Facility construction training program. The
21 Department shall conduct, at least annually, a joint in-service
22 training program for architects, engineers, interior
23 designers, and other persons involved in the construction of a
24 facility under the Ambulatory Surgical Treatment Center Act,
25 the Nursing Home Care Act, the Specialized Mental Health

1 Rehabilitation Act of 2013, the ID/DD Community Care Act, the
2 MC/DD Act, or the Hospital Licensing Act on problems and issues
3 relating to the construction of facilities under any of those
4 Acts.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-104, eff. 7-22-13.)

7 (20 ILCS 2310/2310-625)

8 Sec. 2310-625. Emergency Powers.

9 (a) Upon proclamation of a disaster by the Governor, as
10 provided for in the Illinois Emergency Management Agency Act,
11 the Director of Public Health shall have the following powers,
12 which shall be exercised only in coordination with the Illinois
13 Emergency Management Agency and the Department of Financial and
14 Professional Regulation:

15 (1) The power to suspend the requirements for temporary
16 or permanent licensure or certification of persons who are
17 licensed or certified in another state and are working
18 under the direction of the Illinois Emergency Management
19 Agency and the Illinois Department of Public Health
20 pursuant to the declared disaster.

21 (2) The power to modify the scope of practice
22 restrictions under the Emergency Medical Services (EMS)
23 Systems Act for any persons who are licensed under that Act
24 for any person working under the direction of the Illinois
25 Emergency Management Agency and the Illinois Department of

1 Public Health pursuant to the declared disaster.

2 (3) The power to modify the scope of practice
3 restrictions under the Nursing Home Care Act, the
4 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
5 the ID/DD Community Care Act, or the MC/DD Act for
6 Certified Nursing Assistants for any person working under
7 the direction of the Illinois Emergency Management Agency
8 and the Illinois Department of Public Health pursuant to
9 the declared disaster.

10 (b) Persons exempt from licensure or certification under
11 paragraph (1) of subsection (a) and persons operating under
12 modified scope of practice provisions under paragraph (2) of
13 subsection (a) and paragraph (3) of subsection (a) shall be
14 exempt from licensure or certification or subject to modified
15 scope of practice only until the declared disaster has ended as
16 provided by law. For purposes of this Section, persons working
17 under the direction of an emergency services and disaster
18 agency accredited by the Illinois Emergency Management Agency
19 and a local public health department, pursuant to a declared
20 disaster, shall be deemed to be working under the direction of
21 the Illinois Emergency Management Agency and the Department of
22 Public Health.

23 (c) The Director shall exercise these powers by way of
24 proclamation.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
26 eff. 7-13-12; 98-104, eff. 7-22-13.)

1 Section 25. The Disabilities Services Act of 2003 is
2 amended by changing Section 52 as follows:

3 (20 ILCS 2407/52)

4 Sec. 52. Applicability; definitions. In accordance with
5 Section 6071 of the Deficit Reduction Act of 2005 (P.L.
6 109-171), as used in this Article:

7 "Departments". The term "Departments" means for the
8 purposes of this Act, the Department of Human Services, the
9 Department on Aging, Department of Healthcare and Family
10 Services and Department of Public Health, unless otherwise
11 noted.

12 "Home and community-based long-term care services". The
13 term "home and community-based long-term care services" means,
14 with respect to the State Medicaid program, a service aid, or
15 benefit, home and community-based services, including but not
16 limited to home health and personal care services, that are
17 provided to a person with a disability, and are voluntarily
18 accepted, as part of his or her long-term care that: (i) is
19 provided under the State's qualified home and community-based
20 program or that could be provided under such a program but is
21 otherwise provided under the Medicaid program; (ii) is
22 delivered in a qualified residence; and (iii) is necessary for
23 the person with a disability to live in the community.

24 "ID/DD community care facility". The term "ID/DD community

1 care facility", for the purposes of this Article, means a
2 skilled nursing or intermediate long-term care facility
3 subject to licensure by the Department of Public Health under
4 the ID/DD Community Care Act or the MC/DD Act, an intermediate
5 care facility for the developmentally disabled (ICF-DDs), and a
6 State-operated developmental center or mental health center,
7 whether publicly or privately owned.

8 "Money Follows the Person" Demonstration. Enacted by the
9 Deficit Reduction Act of 2005, the Money Follows the Person
10 (MFP) Rebalancing Demonstration is part of a comprehensive,
11 coordinated strategy to assist states, in collaboration with
12 stakeholders, to make widespread changes to their long-term
13 care support systems. This initiative will assist states in
14 their efforts to reduce their reliance on institutional care
15 while developing community-based long-term care opportunities,
16 enabling the elderly and people with disabilities to fully
17 participate in their communities.

18 "Public funds" mean any funds appropriated by the General
19 Assembly to the Departments of Human Services, on Aging, of
20 Healthcare and Family Services and of Public Health for
21 settings and services as defined in this Article.

22 "Qualified residence". The term "qualified residence"
23 means, with respect to an eligible individual: (i) a home owned
24 or leased by the individual or the individual's authorized
25 representative (as defined by P.L. 109-171); (ii) an apartment
26 with an individual lease, with lockable access and egress, and

1 which includes living, sleeping, bathing, and cooking areas
2 over which the individual or the individual's family has domain
3 and control; or (iii) a residence, in a community-based
4 residential setting, in which no more than 4 unrelated
5 individuals reside. Where qualified residences are not
6 sufficient to meet the demand of eligible individuals,
7 time-limited exceptions to this definition may be developed
8 through administrative rule.

9 "Self-directed services". The term "self-directed
10 services" means, with respect to home and community-based
11 long-term services for an eligible individual, those services
12 for the individual that are planned and purchased under the
13 direction and control of the individual or the individual's
14 authorized representative, including the amount, duration,
15 scope, provider, and location of such services, under the State
16 Medicaid program consistent with the following requirements:

17 (a) Assessment: there is an assessment of the needs,
18 capabilities, and preference of the individual with
19 respect to such services.

20 (b) Individual service care or treatment plan: based on
21 the assessment, there is development jointly with such
22 individual or individual's authorized representative, a
23 plan for such services for the individual that (i)
24 specifies those services, if any, that the individual or
25 the individual's authorized representative would be
26 responsible for directing; (ii) identifies the methods by

1 which the individual or the individual's authorized
2 representative or an agency designated by an individual or
3 representative will select, manage, and dismiss providers
4 of such services.

5 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

6 Section 27. The Criminal Identification Act is amended by
7 changing Section 7.5 as follows:

8 (20 ILCS 2630/7.5)

9 Sec. 7.5. Notification of outstanding warrant. If the
10 existence of an outstanding arrest warrant is identified by the
11 Department of State Police in connection with the criminal
12 history background checks conducted pursuant to subsection (b)
13 of Section 2-201.5 of the Nursing Home Care Act, ~~and~~ Section
14 2-201.5 of the ID/DD MR/DD Community Care Act, Section 2-201.5
15 of the MC/DD Act, or subsection (d) of Section 6.09 of the
16 Hospital Licensing Act, the Department shall notify the
17 jurisdiction issuing the warrant of the following:

18 (1) Existence of the warrant.

19 (2) The name, address, and telephone number of the
20 licensed long term care facility in which the wanted person
21 resides.

22 Local issuing jurisdictions shall be aware that nursing
23 facilities have residents who may be fragile or vulnerable or
24 who may have a mental illness. When serving a warrant, law

1 enforcement shall make every attempt to mitigate the adverse
2 impact on other facility residents.

3 (Source: P.A. 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11.)

4 Section 30. The Illinois Finance Authority Act is amended
5 by changing Section 801-10 as follows:

6 (20 ILCS 3501/801-10)

7 Sec. 801-10. Definitions. The following terms, whenever
8 used or referred to in this Act, shall have the following
9 meanings, except in such instances where the context may
10 clearly indicate otherwise:

11 (a) The term "Authority" means the Illinois Finance
12 Authority created by this Act.

13 (b) The term "project" means an industrial project,
14 conservation project, housing project, public purpose project,
15 higher education project, health facility project, cultural
16 institution project, municipal bond program project,
17 agricultural facility or agribusiness, and "project" may
18 include any combination of one or more of the foregoing
19 undertaken jointly by any person with one or more other
20 persons.

21 (c) The term "public purpose project" means any project or
22 facility, including without limitation land, buildings,
23 structures, machinery, equipment and all other real and
24 personal property, which is authorized or required by law to be

1 acquired, constructed, improved, rehabilitated, reconstructed,
2 replaced or maintained by any unit of government or any other
3 lawful public purpose which is authorized or required by law to
4 be undertaken by any unit of government.

5 (d) The term "industrial project" means the acquisition,
6 construction, refurbishment, creation, development or
7 redevelopment of any facility, equipment, machinery, real
8 property or personal property for use by any instrumentality of
9 the State or its political subdivisions, for use by any person
10 or institution, public or private, for profit or not for
11 profit, or for use in any trade or business, including, but not
12 limited to, any industrial, manufacturing or commercial
13 enterprise that is located within or outside the State,
14 provided that, with respect to a project involving property
15 located outside the State, the property must be owned,
16 operated, leased or managed by an entity located within the
17 State or an entity affiliated with an entity located within the
18 State, and which is (1) a capital project, including, but not
19 limited to: (i) land and any rights therein, one or more
20 buildings, structures or other improvements, machinery and
21 equipment, whether now existing or hereafter acquired, and
22 whether or not located on the same site or sites; (ii) all
23 appurtenances and facilities incidental to the foregoing,
24 including, but not limited to, utilities, access roads,
25 railroad sidings, track, docking and similar facilities,
26 parking facilities, dockage, wharfage, railroad roadbed,

1 track, trestle, depot, terminal, switching and signaling or
2 related equipment, site preparation and landscaping; and (iii)
3 all non-capital costs and expenses relating thereto or (2) any
4 addition to, renovation, rehabilitation or improvement of a
5 capital project or (3) any activity or undertaking within or
6 outside the State, provided that, with respect to a project
7 involving property located outside the State, the property must
8 be owned, operated, leased or managed by an entity located
9 within the State or an entity affiliated with an entity located
10 within the State, which the Authority determines will aid,
11 assist or encourage economic growth, development or
12 redevelopment within the State or any area thereof, will
13 promote the expansion, retention or diversification of
14 employment opportunities within the State or any area thereof
15 or will aid in stabilizing or developing any industry or
16 economic sector of the State economy. The term "industrial
17 project" also means the production of motion pictures.

18 (e) The term "bond" or "bonds" shall include bonds, notes
19 (including bond, grant or revenue anticipation notes),
20 certificates and/or other evidences of indebtedness
21 representing an obligation to pay money, including refunding
22 bonds.

23 (f) The terms "lease agreement" and "loan agreement" shall
24 mean: (i) an agreement whereby a project acquired by the
25 Authority by purchase, gift or lease is leased to any person,
26 corporation or unit of local government which will use or cause

1 the project to be used as a project as heretofore defined upon
2 terms providing for lease rental payments at least sufficient
3 to pay when due all principal of, interest and premium, if any,
4 on any bonds of the Authority issued with respect to such
5 project, providing for the maintenance, insuring and operation
6 of the project on terms satisfactory to the Authority,
7 providing for disposition of the project upon termination of
8 the lease term, including purchase options or abandonment of
9 the premises, and such other terms as may be deemed desirable
10 by the Authority, or (ii) any agreement pursuant to which the
11 Authority agrees to loan the proceeds of its bonds issued with
12 respect to a project or other funds of the Authority to any
13 person which will use or cause the project to be used as a
14 project as heretofore defined upon terms providing for loan
15 repayment installments at least sufficient to pay when due all
16 principal of, interest and premium, if any, on any bonds of the
17 Authority, if any, issued with respect to the project, and
18 providing for maintenance, insurance and other matters as may
19 be deemed desirable by the Authority.

20 (g) The term "financial aid" means the expenditure of
21 Authority funds or funds provided by the Authority through the
22 issuance of its bonds, notes or other evidences of indebtedness
23 or from other sources for the development, construction,
24 acquisition or improvement of a project.

25 (h) The term "person" means an individual, corporation,
26 unit of government, business trust, estate, trust, partnership

1 or association, 2 or more persons having a joint or common
2 interest, or any other legal entity.

3 (i) The term "unit of government" means the federal
4 government, the State or unit of local government, a school
5 district, or any agency or instrumentality, office, officer,
6 department, division, bureau, commission, college or
7 university thereof.

8 (j) The term "health facility" means: (a) any public or
9 private institution, place, building, or agency required to be
10 licensed under the Hospital Licensing Act; (b) any public or
11 private institution, place, building, or agency required to be
12 licensed under the Nursing Home Care Act, the Specialized
13 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
14 Community Care Act, or the MC/DD Act; (c) any public or
15 licensed private hospital as defined in the Mental Health and
16 Developmental Disabilities Code; (d) any such facility
17 exempted from such licensure when the Director of Public Health
18 attests that such exempted facility meets the statutory
19 definition of a facility subject to licensure; (e) any other
20 public or private health service institution, place, building,
21 or agency which the Director of Public Health attests is
22 subject to certification by the Secretary, U.S. Department of
23 Health and Human Services under the Social Security Act, as now
24 or hereafter amended, or which the Director of Public Health
25 attests is subject to standard-setting by a recognized public
26 or voluntary accrediting or standard-setting agency; (f) any

1 public or private institution, place, building or agency
2 engaged in providing one or more supporting services to a
3 health facility; (g) any public or private institution, place,
4 building or agency engaged in providing training in the healing
5 arts, including, but not limited to, schools of medicine,
6 dentistry, osteopathy, optometry, podiatry, pharmacy or
7 nursing, schools for the training of x-ray, laboratory or other
8 health care technicians and schools for the training of
9 para-professionals in the health care field; (h) any public or
10 private congregate, life or extended care or elderly housing
11 facility or any public or private home for the aged or infirm,
12 including, without limitation, any Facility as defined in the
13 Life Care Facilities Act; (i) any public or private mental,
14 emotional or physical rehabilitation facility or any public or
15 private educational, counseling, or rehabilitation facility or
16 home, for those persons with a developmental disability, those
17 who are physically ill or disabled, the emotionally disturbed,
18 those persons with a mental illness or persons with learning or
19 similar disabilities or problems; (j) any public or private
20 alcohol, drug or substance abuse diagnosis, counseling
21 treatment or rehabilitation facility, (k) any public or private
22 institution, place, building or agency licensed by the
23 Department of Children and Family Services or which is not so
24 licensed but which the Director of Children and Family Services
25 attests provides child care, child welfare or other services of
26 the type provided by facilities subject to such licensure; (l)

1 any public or private adoption agency or facility; and (m) any
2 public or private blood bank or blood center. "Health facility"
3 also means a public or private structure or structures suitable
4 primarily for use as a laboratory, laundry, nurses or interns
5 residence or other housing or hotel facility used in whole or
6 in part for staff, employees or students and their families,
7 patients or relatives of patients admitted for treatment or
8 care in a health facility, or persons conducting business with
9 a health facility, physician's facility, surgicenter,
10 administration building, research facility, maintenance,
11 storage or utility facility and all structures or facilities
12 related to any of the foregoing or required or useful for the
13 operation of a health facility, including parking or other
14 facilities or other supporting service structures required or
15 useful for the orderly conduct of such health facility. "Health
16 facility" also means, with respect to a project located outside
17 the State, any public or private institution, place, building,
18 or agency which provides services similar to those described
19 above, provided that such project is owned, operated, leased or
20 managed by a participating health institution located within
21 the State, or a participating health institution affiliated
22 with an entity located within the State.

23 (k) The term "participating health institution" means (i) a
24 private corporation or association or (ii) a public entity of
25 this State, in either case authorized by the laws of this State
26 or the applicable state to provide or operate a health facility

1 as defined in this Act and which, pursuant to the provisions of
2 this Act, undertakes the financing, construction or
3 acquisition of a project or undertakes the refunding or
4 refinancing of obligations, loans, indebtedness or advances as
5 provided in this Act.

6 (l) The term "health facility project", means a specific
7 health facility work or improvement to be financed or
8 refinanced (including without limitation through reimbursement
9 of prior expenditures), acquired, constructed, enlarged,
10 remodeled, renovated, improved, furnished, or equipped, with
11 funds provided in whole or in part hereunder, any accounts
12 receivable, working capital, liability or insurance cost or
13 operating expense financing or refinancing program of a health
14 facility with or involving funds provided in whole or in part
15 hereunder, or any combination thereof.

16 (m) The term "bond resolution" means the resolution or
17 resolutions authorizing the issuance of, or providing terms and
18 conditions related to, bonds issued under this Act and
19 includes, where appropriate, any trust agreement, trust
20 indenture, indenture of mortgage or deed of trust providing
21 terms and conditions for such bonds.

22 (n) The term "property" means any real, personal or mixed
23 property, whether tangible or intangible, or any interest
24 therein, including, without limitation, any real estate,
25 leasehold interests, appurtenances, buildings, easements,
26 equipment, furnishings, furniture, improvements, machinery,

1 rights of way, structures, accounts, contract rights or any
2 interest therein.

3 (o) The term "revenues" means, with respect to any project,
4 the rents, fees, charges, interest, principal repayments,
5 collections and other income or profit derived therefrom.

6 (p) The term "higher education project" means, in the case
7 of a private institution of higher education, an educational
8 facility to be acquired, constructed, enlarged, remodeled,
9 renovated, improved, furnished, or equipped, or any
10 combination thereof.

11 (q) The term "cultural institution project" means, in the
12 case of a cultural institution, a cultural facility to be
13 acquired, constructed, enlarged, remodeled, renovated,
14 improved, furnished, or equipped, or any combination thereof.

15 (r) The term "educational facility" means any property
16 located within the State, or any property located outside the
17 State, provided that, if the property is located outside the
18 State, it must be owned, operated, leased or managed by an
19 entity located within the State or an entity affiliated with an
20 entity located within the State, in each case constructed or
21 acquired before or after the effective date of this Act, which
22 is or will be, in whole or in part, suitable for the
23 instruction, feeding, recreation or housing of students, the
24 conducting of research or other work of a private institution
25 of higher education, the use by a private institution of higher
26 education in connection with any educational, research or

1 related or incidental activities then being or to be conducted
2 by it, or any combination of the foregoing, including, without
3 limitation, any such property suitable for use as or in
4 connection with any one or more of the following: an academic
5 facility, administrative facility, agricultural facility,
6 assembly hall, athletic facility, auditorium, boating
7 facility, campus, communication facility, computer facility,
8 continuing education facility, classroom, dining hall,
9 dormitory, exhibition hall, fire fighting facility, fire
10 prevention facility, food service and preparation facility,
11 gymnasium, greenhouse, health care facility, hospital,
12 housing, instructional facility, laboratory, library,
13 maintenance facility, medical facility, museum, offices,
14 parking area, physical education facility, recreational
15 facility, research facility, stadium, storage facility,
16 student union, study facility, theatre or utility.

17 (s) The term "cultural facility" means any property located
18 within the State, or any property located outside the State,
19 provided that, if the property is located outside the State, it
20 must be owned, operated, leased or managed by an entity located
21 within the State or an entity affiliated with an entity located
22 within the State, in each case constructed or acquired before
23 or after the effective date of this Act, which is or will be,
24 in whole or in part, suitable for the particular purposes or
25 needs of a cultural institution, including, without
26 limitation, any such property suitable for use as or in

1 connection with any one or more of the following: an
2 administrative facility, aquarium, assembly hall, auditorium,
3 botanical garden, exhibition hall, gallery, greenhouse,
4 library, museum, scientific laboratory, theater or zoological
5 facility, and shall also include, without limitation, books,
6 works of art or music, animal, plant or aquatic life or other
7 items for display, exhibition or performance. The term
8 "cultural facility" includes buildings on the National
9 Register of Historic Places which are owned or operated by
10 nonprofit entities.

11 (t) "Private institution of higher education" means a
12 not-for-profit educational institution which is not owned by
13 the State or any political subdivision, agency,
14 instrumentality, district or municipality thereof, which is
15 authorized by law to provide a program of education beyond the
16 high school level and which:

17 (1) Admits as regular students only individuals having
18 a certificate of graduation from a high school, or the
19 recognized equivalent of such a certificate;

20 (2) Provides an educational program for which it awards
21 a bachelor's degree, or provides an educational program,
22 admission into which is conditioned upon the prior
23 attainment of a bachelor's degree or its equivalent, for
24 which it awards a postgraduate degree, or provides not less
25 than a 2-year program which is acceptable for full credit
26 toward such a degree, or offers a 2-year program in

1 engineering, mathematics, or the physical or biological
2 sciences which is designed to prepare the student to work
3 as a technician and at a semiprofessional level in
4 engineering, scientific, or other technological fields
5 which require the understanding and application of basic
6 engineering, scientific, or mathematical principles or
7 knowledge;

8 (3) Is accredited by a nationally recognized
9 accrediting agency or association or, if not so accredited,
10 is an institution whose credits are accepted, on transfer,
11 by not less than 3 institutions which are so accredited,
12 for credit on the same basis as if transferred from an
13 institution so accredited, and holds an unrevoked
14 certificate of approval under the Private College Act from
15 the Board of Higher Education, or is qualified as a "degree
16 granting institution" under the Academic Degree Act; and

17 (4) Does not discriminate in the admission of students
18 on the basis of race or color. "Private institution of
19 higher education" also includes any "academic
20 institution".

21 (u) The term "academic institution" means any
22 not-for-profit institution which is not owned by the State or
23 any political subdivision, agency, instrumentality, district
24 or municipality thereof, which institution engages in, or
25 facilitates academic, scientific, educational or professional
26 research or learning in a field or fields of study taught at a

1 private institution of higher education. Academic institutions
2 include, without limitation, libraries, archives, academic,
3 scientific, educational or professional societies,
4 institutions, associations or foundations having such
5 purposes.

6 (v) The term "cultural institution" means any
7 not-for-profit institution which is not owned by the State or
8 any political subdivision, agency, instrumentality, district
9 or municipality thereof, which institution engages in the
10 cultural, intellectual, scientific, educational or artistic
11 enrichment of the people of the State. Cultural institutions
12 include, without limitation, aquaria, botanical societies,
13 historical societies, libraries, museums, performing arts
14 associations or societies, scientific societies and zoological
15 societies.

16 (w) The term "affiliate" means, with respect to financing
17 of an agricultural facility or an agribusiness, any lender, any
18 person, firm or corporation controlled by, or under common
19 control with, such lender, and any person, firm or corporation
20 controlling such lender.

21 (x) The term "agricultural facility" means land, any
22 building or other improvement thereon or thereto, and any
23 personal properties deemed necessary or suitable for use,
24 whether or not now in existence, in farming, ranching, the
25 production of agricultural commodities (including, without
26 limitation, the products of aquaculture, hydroponics and

1 silviculture) or the treating, processing or storing of such
2 agricultural commodities when such activities are customarily
3 engaged in by farmers as a part of farming and which land,
4 building, improvement or personal property is located within
5 the State, or is located outside the State, provided that, if
6 such property is located outside the State, it must be owned,
7 operated, leased, or managed by an entity located within the
8 State or an entity affiliated with an entity located within the
9 State.

10 (y) The term "lender" with respect to financing of an
11 agricultural facility or an agribusiness, means any federal or
12 State chartered bank, Federal Land Bank, Production Credit
13 Association, Bank for Cooperatives, federal or State chartered
14 savings and loan association or building and loan association,
15 Small Business Investment Company or any other institution
16 qualified within this State to originate and service loans,
17 including, but without limitation to, insurance companies,
18 credit unions and mortgage loan companies. "Lender" also means
19 a wholly owned subsidiary of a manufacturer, seller or
20 distributor of goods or services that makes loans to businesses
21 or individuals, commonly known as a "captive finance company".

22 (z) The term "agribusiness" means any sole proprietorship,
23 limited partnership, co-partnership, joint venture,
24 corporation or cooperative which operates or will operate a
25 facility located within the State or outside the State,
26 provided that, if any facility is located outside the State, it

1 must be owned, operated, leased, or managed by an entity
2 located within the State or an entity affiliated with an entity
3 located within the State, that is related to the processing of
4 agricultural commodities (including, without limitation, the
5 products of aquaculture, hydroponics and silviculture) or the
6 manufacturing, production or construction of agricultural
7 buildings, structures, equipment, implements, and supplies, or
8 any other facilities or processes used in agricultural
9 production. Agribusiness includes but is not limited to the
10 following:

11 (1) grain handling and processing, including grain
12 storage, drying, treatment, conditioning, mailing and
13 packaging;

14 (2) seed and feed grain development and processing;

15 (3) fruit and vegetable processing, including
16 preparation, canning and packaging;

17 (4) processing of livestock and livestock products,
18 dairy products, poultry and poultry products, fish or
19 apiarian products, including slaughter, shearing,
20 collecting, preparation, canning and packaging;

21 (5) fertilizer and agricultural chemical
22 manufacturing, processing, application and supplying;

23 (6) farm machinery, equipment and implement
24 manufacturing and supplying;

25 (7) manufacturing and supplying of agricultural
26 commodity processing machinery and equipment, including

1 machinery and equipment used in slaughter, treatment,
2 handling, collecting, preparation, canning or packaging of
3 agricultural commodities;

4 (8) farm building and farm structure manufacturing,
5 construction and supplying;

6 (9) construction, manufacturing, implementation,
7 supplying or servicing of irrigation, drainage and soil and
8 water conservation devices or equipment;

9 (10) fuel processing and development facilities that
10 produce fuel from agricultural commodities or byproducts;

11 (11) facilities and equipment for processing and
12 packaging agricultural commodities specifically for
13 export;

14 (12) facilities and equipment for forestry product
15 processing and supplying, including sawmilling operations,
16 wood chip operations, timber harvesting operations, and
17 manufacturing of prefabricated buildings, paper, furniture
18 or other goods from forestry products;

19 (13) facilities and equipment for research and
20 development of products, processes and equipment for the
21 production, processing, preparation or packaging of
22 agricultural commodities and byproducts.

23 (aa) The term "asset" with respect to financing of any
24 agricultural facility or any agribusiness, means, but is not
25 limited to the following: cash crops or feed on hand; livestock
26 held for sale; breeding stock; marketable bonds and securities;

1 securities not readily marketable; accounts receivable; notes
2 receivable; cash invested in growing crops; net cash value of
3 life insurance; machinery and equipment; cars and trucks; farm
4 and other real estate including life estates and personal
5 residence; value of beneficial interests in trusts; government
6 payments or grants; and any other assets.

7 (bb) The term "liability" with respect to financing of any
8 agricultural facility or any agribusiness shall include, but
9 not be limited to the following: accounts payable; notes or
10 other indebtedness owed to any source; taxes; rent; amounts
11 owed on real estate contracts or real estate mortgages;
12 judgments; accrued interest payable; and any other liability.

13 (cc) The term "Predecessor Authorities" means those
14 authorities as described in Section 845-75.

15 (dd) The term "housing project" means a specific work or
16 improvement located within the State or outside the State and
17 undertaken to provide residential dwelling accommodations,
18 including the acquisition, construction or rehabilitation of
19 lands, buildings and community facilities and in connection
20 therewith to provide nonhousing facilities which are part of
21 the housing project, including land, buildings, improvements,
22 equipment and all ancillary facilities for use for offices,
23 stores, retirement homes, hotels, financial institutions,
24 service, health care, education, recreation or research
25 establishments, or any other commercial purpose which are or
26 are to be related to a housing development, provided that any

1 work or improvement located outside the State is owned,
2 operated, leased or managed by an entity located within the
3 State, or any entity affiliated with an entity located within
4 the State.

5 (ee) The term "conservation project" means any project
6 including the acquisition, construction, rehabilitation,
7 maintenance, operation, or upgrade that is intended to create
8 or expand open space or to reduce energy usage through
9 efficiency measures. For the purpose of this definition, "open
10 space" has the definition set forth under Section 10 of the
11 Illinois Open Land Trust Act.

12 (ff) The term "significant presence" means the existence
13 within the State of the national or regional headquarters of an
14 entity or group or such other facility of an entity or group of
15 entities where a significant amount of the business functions
16 are performed for such entity or group of entities.

17 (gg) The term "municipal bond issuer" means the State or
18 any other state or commonwealth of the United States, or any
19 unit of local government, school district, agency or
20 instrumentality, office, department, division, bureau,
21 commission, college or university thereof located in the State
22 or any other state or commonwealth of the United States.

23 (hh) The term "municipal bond program project" means a
24 program for the funding of the purchase of bonds, notes or
25 other obligations issued by or on behalf of a municipal bond
26 issuer.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-90, eff. 7-15-13; 98-104, eff. 7-22-13;
3 98-756, eff. 7-16-14.)

4 Section 35. The Illinois Health Facilities Planning Act is
5 amended by changing Sections 3, 12, 13, and 14.1 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on December 31, 2019)

8 Sec. 3. Definitions. As used in this Act:

9 "Health care facilities" means and includes the following
10 facilities, organizations, and related persons:

11 (1) An ambulatory surgical treatment center required
12 to be licensed pursuant to the Ambulatory Surgical
13 Treatment Center Act.

14 (2) An institution, place, building, or agency
15 required to be licensed pursuant to the Hospital Licensing
16 Act.

17 (3) Skilled and intermediate long term care facilities
18 licensed under the Nursing Home Care Act.

19 (A) If a demonstration project under the Nursing
20 Home Care Act applies for a certificate of need to
21 convert to a nursing facility, it shall meet the
22 licensure and certificate of need requirements in
23 effect as of the date of application.

24 (B) Except as provided in item (A) of this

1 subsection, this Act does not apply to facilities
2 granted waivers under Section 3-102.2 of the Nursing
3 Home Care Act.

4 (3.5) Skilled and intermediate care facilities
5 licensed under the ID/DD Community Care Act or the MC/DD
6 Act. ~~(A)~~ No permit or exemption is required for a facility
7 licensed under the ID/DD Community Care Act or the MC/DD
8 Act prior to the reduction of the number of beds at a
9 facility. If there is a total reduction of beds at a
10 facility licensed under the ID/DD Community Care Act or the
11 MC/DD Act, this is a discontinuation or closure of the
12 facility. If a facility licensed under the ID/DD Community
13 Care Act or the MC/DD Act reduces the number of beds or
14 discontinues the facility, that facility must notify the
15 Board as provided in Section 14.1 of this Act.

16 (3.7) Facilities licensed under the Specialized Mental
17 Health Rehabilitation Act of 2013.

18 (4) Hospitals, nursing homes, ambulatory surgical
19 treatment centers, or kidney disease treatment centers
20 maintained by the State or any department or agency
21 thereof.

22 (5) Kidney disease treatment centers, including a
23 free-standing hemodialysis unit required to be licensed
24 under the End Stage Renal Disease Facility Act.

25 (A) This Act does not apply to a dialysis facility
26 that provides only dialysis training, support, and

1 related services to individuals with end stage renal
2 disease who have elected to receive home dialysis.

3 (B) This Act does not apply to a dialysis unit
4 located in a licensed nursing home that offers or
5 provides dialysis-related services to residents with
6 end stage renal disease who have elected to receive
7 home dialysis within the nursing home.

8 (C) The Board, however, may require dialysis
9 facilities and licensed nursing homes under items (A)
10 and (B) of this subsection to report statistical
11 information on a quarterly basis to the Board to be
12 used by the Board to conduct analyses on the need for
13 proposed kidney disease treatment centers.

14 (6) An institution, place, building, or room used for
15 the performance of outpatient surgical procedures that is
16 leased, owned, or operated by or on behalf of an
17 out-of-state facility.

18 (7) An institution, place, building, or room used for
19 provision of a health care category of service, including,
20 but not limited to, cardiac catheterization and open heart
21 surgery.

22 (8) An institution, place, building, or room housing
23 major medical equipment used in the direct clinical
24 diagnosis or treatment of patients, and whose project cost
25 is in excess of the capital expenditure minimum.

26 "Health care facilities" does not include the following

1 entities or facility transactions:

2 (1) Federally-owned facilities.

3 (2) Facilities used solely for healing by prayer or
4 spiritual means.

5 (3) An existing facility located on any campus facility
6 as defined in Section 5-5.8b of the Illinois Public Aid
7 Code, provided that the campus facility encompasses 30 or
8 more contiguous acres and that the new or renovated
9 facility is intended for use by a licensed residential
10 facility.

11 (4) Facilities licensed under the Supportive
12 Residences Licensing Act or the Assisted Living and Shared
13 Housing Act.

14 (5) Facilities designated as supportive living
15 facilities that are in good standing with the program
16 established under Section 5-5.01a of the Illinois Public
17 Aid Code.

18 (6) Facilities established and operating under the
19 Alternative Health Care Delivery Act as a children's
20 community-based health care center ~~children's respite care~~
21 ~~center~~ alternative health care model demonstration program
22 or as an Alzheimer's Disease Management Center alternative
23 health care model demonstration program.

24 (7) The closure of an entity or a portion of an entity
25 licensed under the Nursing Home Care Act, the Specialized
26 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD

1 Community Care Act, or the MC/DD Act, with the exception of
2 facilities operated by a county or Illinois Veterans Homes,
3 that elect to convert, in whole or in part, to an assisted
4 living or shared housing establishment licensed under the
5 Assisted Living and Shared Housing Act and with the
6 exception of a facility licensed under the Specialized
7 Mental Health Rehabilitation Act of 2013 in connection with
8 a proposal to close a facility and re-establish the
9 facility in another location.

10 (8) Any change of ownership of a health care ~~healthcare~~
11 facility that is licensed under the Nursing Home Care Act,
12 the Specialized Mental Health Rehabilitation Act of 2013,
13 ~~or~~ the ID/DD Community Care Act, or the MC/DD Act, with the
14 exception of facilities operated by a county or Illinois
15 Veterans Homes. Changes of ownership of facilities
16 licensed under the Nursing Home Care Act must meet the
17 requirements set forth in Sections 3-101 through 3-119 of
18 the Nursing Home Care Act. ~~children's community based~~
19 ~~health care center of 2013 and with the exception of a~~
20 ~~facility licensed under the Specialized Mental Health~~
21 ~~Rehabilitation Act of 2013 in connection with a proposal to~~
22 ~~close a facility and re-establish the facility in another~~
23 ~~location of 2013~~

24 With the exception of those health care facilities
25 specifically included in this Section, nothing in this Act
26 shall be intended to include facilities operated as a part of

1 the practice of a physician or other licensed health care
2 professional, whether practicing in his individual capacity or
3 within the legal structure of any partnership, medical or
4 professional corporation, or unincorporated medical or
5 professional group. Further, this Act shall not apply to
6 physicians or other licensed health care professional's
7 practices where such practices are carried out in a portion of
8 a health care facility under contract with such health care
9 facility by a physician or by other licensed health care
10 professionals, whether practicing in his individual capacity
11 or within the legal structure of any partnership, medical or
12 professional corporation, or unincorporated medical or
13 professional groups, unless the entity constructs, modifies,
14 or establishes a health care facility as specifically defined
15 in this Section. This Act shall apply to construction or
16 modification and to establishment by such health care facility
17 of such contracted portion which is subject to facility
18 licensing requirements, irrespective of the party responsible
19 for such action or attendant financial obligation.

20 "Person" means any one or more natural persons, legal
21 entities, governmental bodies other than federal, or any
22 combination thereof.

23 "Consumer" means any person other than a person (a) whose
24 major occupation currently involves or whose official capacity
25 within the last 12 months has involved the providing,
26 administering or financing of any type of health care facility,

1 (b) who is engaged in health research or the teaching of
2 health, (c) who has a material financial interest in any
3 activity which involves the providing, administering or
4 financing of any type of health care facility, or (d) who is or
5 ever has been a member of the immediate family of the person
6 defined by (a), (b), or (c).

7 "State Board" or "Board" means the Health Facilities and
8 Services Review Board.

9 "Construction or modification" means the establishment,
10 erection, building, alteration, reconstruction, modernization,
11 improvement, extension, discontinuation, change of ownership,
12 of or by a health care facility, or the purchase or acquisition
13 by or through a health care facility of equipment or service
14 for diagnostic or therapeutic purposes or for facility
15 administration or operation, or any capital expenditure made by
16 or on behalf of a health care facility which exceeds the
17 capital expenditure minimum; however, any capital expenditure
18 made by or on behalf of a health care facility for (i) the
19 construction or modification of a facility licensed under the
20 Assisted Living and Shared Housing Act or (ii) a conversion
21 project undertaken in accordance with Section 30 of the Older
22 Adult Services Act shall be excluded from any obligations under
23 this Act.

24 "Establish" means the construction of a health care
25 facility or the replacement of an existing facility on another
26 site or the initiation of a category of service.

1 "Major medical equipment" means medical equipment which is
2 used for the provision of medical and other health services and
3 which costs in excess of the capital expenditure minimum,
4 except that such term does not include medical equipment
5 acquired by or on behalf of a clinical laboratory to provide
6 clinical laboratory services if the clinical laboratory is
7 independent of a physician's office and a hospital and it has
8 been determined under Title XVIII of the Social Security Act to
9 meet the requirements of paragraphs (10) and (11) of Section
10 1861(s) of such Act. In determining whether medical equipment
11 has a value in excess of the capital expenditure minimum, the
12 value of studies, surveys, designs, plans, working drawings,
13 specifications, and other activities essential to the
14 acquisition of such equipment shall be included.

15 "Capital Expenditure" means an expenditure: (A) made by or
16 on behalf of a health care facility (as such a facility is
17 defined in this Act); and (B) which under generally accepted
18 accounting principles is not properly chargeable as an expense
19 of operation and maintenance, or is made to obtain by lease or
20 comparable arrangement any facility or part thereof or any
21 equipment for a facility or part; and which exceeds the capital
22 expenditure minimum.

23 For the purpose of this paragraph, the cost of any studies,
24 surveys, designs, plans, working drawings, specifications, and
25 other activities essential to the acquisition, improvement,
26 expansion, or replacement of any plant or equipment with

1 respect to which an expenditure is made shall be included in
2 determining if such expenditure exceeds the capital
3 expenditures minimum. Unless otherwise interdependent, or
4 submitted as one project by the applicant, components of
5 construction or modification undertaken by means of a single
6 construction contract or financed through the issuance of a
7 single debt instrument shall not be grouped together as one
8 project. Donations of equipment or facilities to a health care
9 facility which if acquired directly by such facility would be
10 subject to review under this Act shall be considered capital
11 expenditures, and a transfer of equipment or facilities for
12 less than fair market value shall be considered a capital
13 expenditure for purposes of this Act if a transfer of the
14 equipment or facilities at fair market value would be subject
15 to review.

16 "Capital expenditure minimum" means \$11,500,000 for
17 projects by hospital applicants, \$6,500,000 for applicants for
18 projects related to skilled and intermediate care long-term
19 care facilities licensed under the Nursing Home Care Act, and
20 \$3,000,000 for projects by all other applicants, which shall be
21 annually adjusted to reflect the increase in construction costs
22 due to inflation, for major medical equipment and for all other
23 capital expenditures.

24 "Non-clinical service area" means an area (i) for the
25 benefit of the patients, visitors, staff, or employees of a
26 health care facility and (ii) not directly related to the

1 diagnosis, treatment, or rehabilitation of persons receiving
2 services from the health care facility. "Non-clinical service
3 areas" include, but are not limited to, chapels; gift shops;
4 news stands; computer systems; tunnels, walkways, and
5 elevators; telephone systems; projects to comply with life
6 safety codes; educational facilities; student housing;
7 patient, employee, staff, and visitor dining areas;
8 administration and volunteer offices; modernization of
9 structural components (such as roof replacement and masonry
10 work); boiler repair or replacement; vehicle maintenance and
11 storage facilities; parking facilities; mechanical systems for
12 heating, ventilation, and air conditioning; loading docks; and
13 repair or replacement of carpeting, tile, wall coverings,
14 window coverings or treatments, or furniture. Solely for the
15 purpose of this definition, "non-clinical service area" does
16 not include health and fitness centers.

17 "Areawide" means a major area of the State delineated on a
18 geographic, demographic, and functional basis for health
19 planning and for health service and having within it one or
20 more local areas for health planning and health service. The
21 term "region", as contrasted with the term "subregion", and the
22 word "area" may be used synonymously with the term "areawide".

23 "Local" means a subarea of a delineated major area that on
24 a geographic, demographic, and functional basis may be
25 considered to be part of such major area. The term "subregion"
26 may be used synonymously with the term "local".

1 "Physician" means a person licensed to practice in
2 accordance with the Medical Practice Act of 1987, as amended.

3 "Licensed health care professional" means a person
4 licensed to practice a health profession under pertinent
5 licensing statutes of the State of Illinois.

6 "Director" means the Director of the Illinois Department of
7 Public Health.

8 "Agency" means the Illinois Department of Public Health.

9 "Alternative health care model" means a facility or program
10 authorized under the Alternative Health Care Delivery Act.

11 "Out-of-state facility" means a person that is both (i)
12 licensed as a hospital or as an ambulatory surgery center under
13 the laws of another state or that qualifies as a hospital or an
14 ambulatory surgery center under regulations adopted pursuant
15 to the Social Security Act and (ii) not licensed under the
16 Ambulatory Surgical Treatment Center Act, the Hospital
17 Licensing Act, or the Nursing Home Care Act. Affiliates of
18 out-of-state facilities shall be considered out-of-state
19 facilities. Affiliates of Illinois licensed health care
20 facilities 100% owned by an Illinois licensed health care
21 facility, its parent, or Illinois physicians licensed to
22 practice medicine in all its branches shall not be considered
23 out-of-state facilities. Nothing in this definition shall be
24 construed to include an office or any part of an office of a
25 physician licensed to practice medicine in all its branches in
26 Illinois that is not required to be licensed under the

1 Ambulatory Surgical Treatment Center Act.

2 "Change of ownership of a health care facility" means a
3 change in the person who has ownership or control of a health
4 care facility's physical plant and capital assets. A change in
5 ownership is indicated by the following transactions: sale,
6 transfer, acquisition, lease, change of sponsorship, or other
7 means of transferring control.

8 "Related person" means any person that: (i) is at least 50%
9 owned, directly or indirectly, by either the health care
10 facility or a person owning, directly or indirectly, at least
11 50% of the health care facility; or (ii) owns, directly or
12 indirectly, at least 50% of the health care facility.

13 "Charity care" means care provided by a health care
14 facility for which the provider does not expect to receive
15 payment from the patient or a third-party payer.

16 "Freestanding emergency center" means a facility subject
17 to licensure under Section 32.5 of the Emergency Medical
18 Services (EMS) Systems Act.

19 "Category of service" means a grouping by generic class of
20 various types or levels of support functions, equipment, care,
21 or treatment provided to patients or residents, including, but
22 not limited to, classes such as medical-surgical, pediatrics,
23 or cardiac catheterization. A category of service may include
24 subcategories or levels of care that identify a particular
25 degree or type of care within the category of service. Nothing
26 in this definition shall be construed to include the practice

1 of a physician or other licensed health care professional while
2 functioning in an office providing for the care, diagnosis, or
3 treatment of patients. A category of service that is subject to
4 the Board's jurisdiction must be designated in rules adopted by
5 the Board.

6 "State Board Staff Report" means the document that sets
7 forth the review and findings of the State Board staff, as
8 prescribed by the State Board, regarding applications subject
9 to Board jurisdiction.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-277, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 97-980, eff. 8-17-12; 98-414, eff. 1-1-14;
12 98-629, eff. 1-1-15; 98-651, eff. 6-16-14; 98-1086, eff.
13 8-26-14; revised 10-22-14.)

14 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

15 (Section scheduled to be repealed on December 31, 2019)

16 Sec. 12. Powers and duties of State Board. For purposes of
17 this Act, the State Board shall exercise the following powers
18 and duties:

19 (1) Prescribe rules, regulations, standards, criteria,
20 procedures or reviews which may vary according to the purpose
21 for which a particular review is being conducted or the type of
22 project reviewed and which are required to carry out the
23 provisions and purposes of this Act. Policies and procedures of
24 the State Board shall take into consideration the priorities
25 and needs of medically underserved areas and other health care

1 services identified through the comprehensive health planning
2 process, giving special consideration to the impact of projects
3 on access to safety net services.

4 (2) Adopt procedures for public notice and hearing on all
5 proposed rules, regulations, standards, criteria, and plans
6 required to carry out the provisions of this Act.

7 (3) (Blank).

8 (4) Develop criteria and standards for health care
9 facilities planning, conduct statewide inventories of health
10 care facilities, maintain an updated inventory on the Board's
11 web site reflecting the most recent bed and service changes and
12 updated need determinations when new census data become
13 available or new need formulae are adopted, and develop health
14 care facility plans which shall be utilized in the review of
15 applications for permit under this Act. Such health facility
16 plans shall be coordinated by the Board with pertinent State
17 Plans. Inventories pursuant to this Section of skilled or
18 intermediate care facilities licensed under the Nursing Home
19 Care Act, skilled or intermediate care facilities licensed
20 under the ID/DD Community Care Act, skilled or intermediate
21 care facilities licensed under the MC/DD Act, facilities
22 licensed under the Specialized Mental Health Rehabilitation
23 Act of 2013, or nursing homes licensed under the Hospital
24 Licensing Act shall be conducted on an annual basis no later
25 than July 1 of each year and shall include among the
26 information requested a list of all services provided by a

1 facility to its residents and to the community at large and
2 differentiate between active and inactive beds.

3 In developing health care facility plans, the State Board
4 shall consider, but shall not be limited to, the following:

5 (a) The size, composition and growth of the population
6 of the area to be served;

7 (b) The number of existing and planned facilities
8 offering similar programs;

9 (c) The extent of utilization of existing facilities;

10 (d) The availability of facilities which may serve as
11 alternatives or substitutes;

12 (e) The availability of personnel necessary to the
13 operation of the facility;

14 (f) Multi-institutional planning and the establishment
15 of multi-institutional systems where feasible;

16 (g) The financial and economic feasibility of proposed
17 construction or modification; and

18 (h) In the case of health care facilities established
19 by a religious body or denomination, the needs of the
20 members of such religious body or denomination may be
21 considered to be public need.

22 The health care facility plans which are developed and
23 adopted in accordance with this Section shall form the basis
24 for the plan of the State to deal most effectively with
25 statewide health needs in regard to health care facilities.

26 (5) Coordinate with the Center for Comprehensive Health

1 Planning and other state agencies having responsibilities
2 affecting health care facilities, including those of licensure
3 and cost reporting. Beginning no later than January 1, 2013,
4 the Department of Public Health shall produce a written annual
5 report to the Governor and the General Assembly regarding the
6 development of the Center for Comprehensive Health Planning.
7 The Chairman of the State Board and the State Board
8 Administrator shall also receive a copy of the annual report.

9 (6) Solicit, accept, hold and administer on behalf of the
10 State any grants or bequests of money, securities or property
11 for use by the State Board or Center for Comprehensive Health
12 Planning in the administration of this Act; and enter into
13 contracts consistent with the appropriations for purposes
14 enumerated in this Act.

15 (7) The State Board shall prescribe procedures for review,
16 standards, and criteria which shall be utilized to make
17 periodic reviews and determinations of the appropriateness of
18 any existing health services being rendered by health care
19 facilities subject to the Act. The State Board shall consider
20 recommendations of the Board in making its determinations.

21 (8) Prescribe, in consultation with the Center for
22 Comprehensive Health Planning, rules, regulations, standards,
23 and criteria for the conduct of an expeditious review of
24 applications for permits for projects of construction or
25 modification of a health care facility, which projects are
26 classified as emergency, substantive, or non-substantive in

1 nature.

2 Six months after June 30, 2009 (the effective date of
3 Public Act 96-31), substantive projects shall include no more
4 than the following:

5 (a) Projects to construct (1) a new or replacement
6 facility located on a new site or (2) a replacement
7 facility located on the same site as the original facility
8 and the cost of the replacement facility exceeds the
9 capital expenditure minimum, which shall be reviewed by the
10 Board within 120 days;

11 (b) Projects proposing a (1) new service within an
12 existing healthcare facility or (2) discontinuation of a
13 service within an existing healthcare facility, which
14 shall be reviewed by the Board within 60 days; or

15 (c) Projects proposing a change in the bed capacity of
16 a health care facility by an increase in the total number
17 of beds or by a redistribution of beds among various
18 categories of service or by a relocation of beds from one
19 physical facility or site to another by more than 20 beds
20 or more than 10% of total bed capacity, as defined by the
21 State Board, whichever is less, over a 2-year period.

22 The Chairman may approve applications for exemption that
23 meet the criteria set forth in rules or refer them to the full
24 Board. The Chairman may approve any unopposed application that
25 meets all of the review criteria or refer them to the full
26 Board.

1 Such rules shall not abridge the right of the Center for
2 Comprehensive Health Planning to make recommendations on the
3 classification and approval of projects, nor shall such rules
4 prevent the conduct of a public hearing upon the timely request
5 of an interested party. Such reviews shall not exceed 60 days
6 from the date the application is declared to be complete.

7 (9) Prescribe rules, regulations, standards, and criteria
8 pertaining to the granting of permits for construction and
9 modifications which are emergent in nature and must be
10 undertaken immediately to prevent or correct structural
11 deficiencies or hazardous conditions that may harm or injure
12 persons using the facility, as defined in the rules and
13 regulations of the State Board. This procedure is exempt from
14 public hearing requirements of this Act.

15 (10) Prescribe rules, regulations, standards and criteria
16 for the conduct of an expeditious review, not exceeding 60
17 days, of applications for permits for projects to construct or
18 modify health care facilities which are needed for the care and
19 treatment of persons who have acquired immunodeficiency
20 syndrome (AIDS) or related conditions.

21 (11) Issue written decisions upon request of the applicant
22 or an adversely affected party to the Board. Requests for a
23 written decision shall be made within 15 days after the Board
24 meeting in which a final decision has been made. A "final
25 decision" for purposes of this Act is the decision to approve
26 or deny an application, or take other actions permitted under

1 this Act, at the time and date of the meeting that such action
2 is scheduled by the Board. State Board members shall provide
3 their rationale when voting on an item before the State Board
4 at a State Board meeting in order to comply with subsection (b)
5 of Section 3-108 of the Administrative Review Law of the Code
6 of Civil Procedure. The transcript of the State Board meeting
7 shall be incorporated into the Board's final decision. The
8 staff of the Board shall prepare a written copy of the final
9 decision and the Board shall approve a final copy for inclusion
10 in the formal record. The Board shall consider, for approval,
11 the written draft of the final decision no later than the next
12 scheduled Board meeting. The written decision shall identify
13 the applicable criteria and factors listed in this Act and the
14 Board's regulations that were taken into consideration by the
15 Board when coming to a final decision. If the Board denies or
16 fails to approve an application for permit or exemption, the
17 Board shall include in the final decision a detailed
18 explanation as to why the application was denied and identify
19 what specific criteria or standards the applicant did not
20 fulfill.

21 (12) Require at least one of its members to participate in
22 any public hearing, after the appointment of a majority of the
23 members to the Board.

24 (13) Provide a mechanism for the public to comment on, and
25 request changes to, draft rules and standards.

26 (14) Implement public information campaigns to regularly

1 inform the general public about the opportunity for public
2 hearings and public hearing procedures.

3 (15) Establish a separate set of rules and guidelines for
4 long-term care that recognizes that nursing homes are a
5 different business line and service model from other regulated
6 facilities. An open and transparent process shall be developed
7 that considers the following: how skilled nursing fits in the
8 continuum of care with other care providers, modernization of
9 nursing homes, establishment of more private rooms,
10 development of alternative services, and current trends in
11 long-term care services. The Chairman of the Board shall
12 appoint a permanent Health Services Review Board Long-term Care
13 Facility Advisory Subcommittee that shall develop and
14 recommend to the Board the rules to be established by the Board
15 under this paragraph (15). The Subcommittee shall also provide
16 continuous review and commentary on policies and procedures
17 relative to long-term care and the review of related projects.
18 In consultation with other experts from the health field of
19 long-term care, the Board and the Subcommittee shall study new
20 approaches to the current bed need formula and Health Service
21 Area boundaries to encourage flexibility and innovation in
22 design models reflective of the changing long-term care
23 marketplace and consumer preferences. The Subcommittee shall
24 evaluate, and make recommendations to the State Board
25 regarding, the buying, selling, and exchange of beds between
26 long-term care facilities within a specified geographic area or

1 drive time. The Board shall file the proposed related
2 administrative rules for the separate rules and guidelines for
3 long-term care required by this paragraph (15) by no later than
4 September 30, 2011. The Subcommittee shall be provided a
5 reasonable and timely opportunity to review and comment on any
6 review, revision, or updating of the criteria, standards,
7 procedures, and rules used to evaluate project applications as
8 provided under Section 12.3 of this Act.

9 (16) Prescribe and provide forms pertaining to the State
10 Board Staff Report. A State Board Staff Report shall pertain to
11 applications that include, but are not limited to, applications
12 for permit or exemption, applications for permit renewal,
13 applications for extension of the obligation period,
14 applications requesting a declaratory ruling, or applications
15 under the Health Care Worker Self-Referral ~~Self-Referral~~ Act.
16 State Board Staff Reports shall compare applications to the
17 relevant review criteria under the Board's rules.

18 (17) ~~(16)~~ Establish a separate set of rules and guidelines
19 for facilities licensed under the Specialized Mental Health
20 Rehabilitation Act of 2013. An application for the
21 re-establishment of a facility in connection with the
22 relocation of the facility shall not be granted unless the
23 applicant has a contractual relationship with at least one
24 hospital to provide emergency and inpatient mental health
25 services required by facility consumers, and at least one
26 community mental health agency to provide oversight and

1 assistance to facility consumers while living in the facility,
2 and appropriate services, including case management, to assist
3 them to prepare for discharge and reside stably in the
4 community thereafter. No new facilities licensed under the
5 Specialized Mental Health Rehabilitation Act of 2013 shall be
6 established after June 16, 2014 (the effective date of Public
7 Act 98-651) ~~this amendatory Act of the 98th General Assembly~~
8 except in connection with the relocation of an existing
9 facility to a new location. An application for a new location
10 shall not be approved unless there are adequate community
11 services accessible to the consumers within a reasonable
12 distance, or by use of public transportation, so as to
13 facilitate the goal of achieving maximum individual self-care
14 and independence. At no time shall the total number of
15 authorized beds under this Act in facilities licensed under the
16 Specialized Mental Health Rehabilitation Act of 2013 exceed the
17 number of authorized beds on June 16, 2014 (the effective date
18 of Public Act 98-651) ~~this amendatory Act of the 98th General~~
19 ~~Assembly.~~

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 97-1045, eff. 8-21-13; 97-1115, eff. 8-27-12;
22 98-414, eff. 1-1-14; 98-463, eff. 8-16-13; 98-651, eff.
23 6-16-14; 98-1086, eff. 8-26-14; revised 10-1-14.)

24 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

25 (Section scheduled to be repealed on December 31, 2019)

1 Sec. 13. Investigation of applications for permits and
2 certificates of recognition. The State Board shall make or
3 cause to be made such investigations as it deems necessary in
4 connection with an application for a permit or an application
5 for a certificate of recognition, or in connection with a
6 determination of whether or not construction or modification
7 which has been commenced is in accord with the permit issued by
8 the State Board or whether construction or modification has
9 been commenced without a permit having been obtained. The State
10 Board may issue subpoenas duces tecum requiring the production
11 of records and may administer oaths to such witnesses.

12 Any circuit court of this State, upon the application of
13 the State Board or upon the application of any party to such
14 proceedings, may, in its discretion, compel the attendance of
15 witnesses, the production of books, papers, records, or
16 memoranda and the giving of testimony before the State Board,
17 by a proceeding as for contempt, or otherwise, in the same
18 manner as production of evidence may be compelled before the
19 court.

20 The State Board shall require all health facilities
21 operating in this State to provide such reasonable reports at
22 such times and containing such information as is needed by it
23 to carry out the purposes and provisions of this Act. Prior to
24 collecting information from health facilities, the State Board
25 shall make reasonable efforts through a public process to
26 consult with health facilities and associations that represent

1 them to determine whether data and information requests will
2 result in useful information for health planning, whether
3 sufficient information is available from other sources, and
4 whether data requested is routinely collected by health
5 facilities and is available without retrospective record
6 review. Data and information requests shall not impose undue
7 paperwork burdens on health care facilities and personnel.
8 Health facilities not complying with this requirement shall be
9 reported to licensing, accrediting, certifying, or payment
10 agencies as being in violation of State law. Health care
11 facilities and other parties at interest shall have reasonable
12 access, under rules established by the State Board, to all
13 planning information submitted in accord with this Act
14 pertaining to their area.

15 Among the reports to be required by the State Board are
16 facility questionnaires for health care facilities licensed
17 under the Ambulatory Surgical Treatment Center Act, the
18 Hospital Licensing Act, the Nursing Home Care Act, the ID/DD
19 Community Care Act, the MC/DD Act, the Specialized Mental
20 Health Rehabilitation Act of 2013, or the End Stage Renal
21 Disease Facility Act. These questionnaires shall be conducted
22 on an annual basis and compiled by the State Board. For health
23 care facilities licensed under the Nursing Home Care Act or the
24 Specialized Mental Health Rehabilitation Act of 2013, these
25 reports shall include, but not be limited to, the
26 identification of specialty services provided by the facility

1 to patients, residents, and the community at large. Annual
2 reports for facilities licensed under the ID/DD Community Care
3 Act and facilities licensed under the MC/DD Act shall be
4 different from the annual reports required of other health care
5 facilities and shall be specific to those facilities licensed
6 under the ID/DD Community Care Act or the MC/DD Act. The Health
7 Facilities and Services Review Board shall consult with
8 associations representing facilities licensed under the ID/DD
9 Community Care Act and associations representing facilities
10 licensed under the MC/DD Act when developing the information
11 requested in these annual reports. For health care facilities
12 that contain long term care beds, the reports shall also
13 include the number of staffed long term care beds, physical
14 capacity for long term care beds at the facility, and long term
15 care beds available for immediate occupancy. For purposes of
16 this paragraph, "long term care beds" means beds (i) licensed
17 under the Nursing Home Care Act, (ii) licensed under the ID/DD
18 Community Care Act, (iii) licensed under the MC/DD Act, (iv)
19 ~~(iii)~~ licensed under the Hospital Licensing Act, or (v) ~~(iv)~~
20 licensed under the Specialized Mental Health Rehabilitation
21 Act of 2013 and certified as skilled nursing or nursing
22 facility beds under Medicaid or Medicare.

23 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
24 eff. 7-13-12; 97-980, eff. 8-17-12; 98-1086, eff. 8-26-14.)

1 Sec. 14.1. Denial of permit; other sanctions.

2 (a) The State Board may deny an application for a permit or
3 may revoke or take other action as permitted by this Act with
4 regard to a permit as the State Board deems appropriate,
5 including the imposition of fines as set forth in this Section,
6 for any one or a combination of the following:

7 (1) The acquisition of major medical equipment without
8 a permit or in violation of the terms of a permit.

9 (2) The establishment, construction, or modification
10 of a health care facility without a permit or in violation
11 of the terms of a permit.

12 (3) The violation of any provision of this Act or any
13 rule adopted under this Act.

14 (4) The failure, by any person subject to this Act, to
15 provide information requested by the State Board or Agency
16 within 30 days after a formal written request for the
17 information.

18 (5) The failure to pay any fine imposed under this
19 Section within 30 days of its imposition.

20 (a-5) For facilities licensed under the ID/DD Community
21 Care Act, no permit shall be denied on the basis of prior
22 operator history, other than for actions specified under item
23 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
24 Act. For facilities licensed under the MC/DD Act, no permit
25 shall be denied on the basis of prior operator history, other
26 than for actions specified under item (2), (4), or (5) of

1 Section 3-117 of the MC/DD Act. For facilities licensed under
2 the Specialized Mental Health Rehabilitation Act of 2013, no
3 permit shall be denied on the basis of prior operator history,
4 other than for actions specified under item (2), (4), or (5) of
5 Section 3-117 of the Specialized Mental Health Rehabilitation
6 Act of 2013. For facilities licensed under the Nursing Home
7 Care Act, no permit shall be denied on the basis of prior
8 operator history, other than for: (i) actions specified under
9 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing
10 Home Care Act; (ii) actions specified under item (a)(6) of
11 Section 3-119 of the Nursing Home Care Act; or (iii) actions
12 within the preceding 5 years constituting a substantial and
13 repeated failure to comply with the Nursing Home Care Act or
14 the rules and regulations adopted by the Department under that
15 Act. The State Board shall not deny a permit on account of any
16 action described in this subsection (a-5) without also
17 considering all such actions in the light of all relevant
18 information available to the State Board, including whether the
19 permit is sought to substantially comply with a mandatory or
20 voluntary plan of correction associated with any action
21 described in this subsection (a-5).

22 (b) Persons shall be subject to fines as follows:

23 (1) A permit holder who fails to comply with the
24 requirements of maintaining a valid permit shall be fined
25 an amount not to exceed 1% of the approved permit amount
26 plus an additional 1% of the approved permit amount for

1 each 30-day period, or fraction thereof, that the violation
2 continues.

3 (2) A permit holder who alters the scope of an approved
4 project or whose project costs exceed the allowable permit
5 amount without first obtaining approval from the State
6 Board shall be fined an amount not to exceed the sum of (i)
7 the lesser of \$25,000 or 2% of the approved permit amount
8 and (ii) in those cases where the approved permit amount is
9 exceeded by more than \$1,000,000, an additional \$20,000 for
10 each \$1,000,000, or fraction thereof, in excess of the
11 approved permit amount.

12 (2.5) A permit holder who fails to comply with the
13 post-permit and reporting requirements set forth in
14 Section 5 shall be fined an amount not to exceed \$10,000
15 plus an additional \$10,000 for each 30-day period, or
16 fraction thereof, that the violation continues. This fine
17 shall continue to accrue until the date that (i) the
18 post-permit requirements are met and the post-permit
19 reports are received by the State Board or (ii) the matter
20 is referred by the State Board to the State Board's legal
21 counsel. The accrued fine is not waived by the permit
22 holder submitting the required information and reports.
23 Prior to any fine beginning to accrue, the Board shall
24 notify, in writing, a permit holder of the due date for the
25 post-permit and reporting requirements no later than 30
26 days before the due date for the requirements. This

1 paragraph (2.5) takes effect 6 months after August 27, 2012
2 (the effective date of Public Act 97-1115).

3 (3) A person who acquires major medical equipment or
4 who establishes a category of service without first
5 obtaining a permit or exemption, as the case may be, shall
6 be fined an amount not to exceed \$10,000 for each such
7 acquisition or category of service established plus an
8 additional \$10,000 for each 30-day period, or fraction
9 thereof, that the violation continues.

10 (4) A person who constructs, modifies, or establishes a
11 health care facility without first obtaining a permit shall
12 be fined an amount not to exceed \$25,000 plus an additional
13 \$25,000 for each 30-day period, or fraction thereof, that
14 the violation continues.

15 (5) A person who discontinues a health care facility or
16 a category of service without first obtaining a permit
17 shall be fined an amount not to exceed \$10,000 plus an
18 additional \$10,000 for each 30-day period, or fraction
19 thereof, that the violation continues. For purposes of this
20 subparagraph (5), facilities licensed under the Nursing
21 Home Care Act, ~~or~~ the ID/DD Community Care Act, or the
22 MC/DD Act, with the exceptions of facilities operated by a
23 county or Illinois Veterans Homes, are exempt from this
24 permit requirement. However, facilities licensed under the
25 Nursing Home Care Act, ~~or~~ the ID/DD Community Care Act, or
26 the MC/DD Act must comply with Section 3-423 of the Nursing

1 Home Care Act, ~~or~~ Section 3-423 of the ID/DD Community Care
2 Act, or Section 3-423 of the MC/DD Act and must provide the
3 Board and the Department of Human Services with 30 days'
4 written notice of their ~~its~~ intent to close. Facilities
5 licensed under the ID/DD Community Care Act or the MC/DD
6 Act also must provide the Board and the Department of Human
7 Services with 30 days' written notice of their ~~its~~ intent
8 to reduce the number of beds for a facility.

9 (6) A person subject to this Act who fails to provide
10 information requested by the State Board or Agency within
11 30 days of a formal written request shall be fined an
12 amount not to exceed \$1,000 plus an additional \$1,000 for
13 each 30-day period, or fraction thereof, that the
14 information is not received by the State Board or Agency.

15 (c) Before imposing any fine authorized under this Section,
16 the State Board shall afford the person or permit holder, as
17 the case may be, an appearance before the State Board and an
18 opportunity for a hearing before a hearing officer appointed by
19 the State Board. The hearing shall be conducted in accordance
20 with Section 10.

21 (d) All fines collected under this Act shall be transmitted
22 to the State Treasurer, who shall deposit them into the
23 Illinois Health Facilities Planning Fund.

24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
25 eff. 7-13-12; 97-980, eff. 8-17-12; 97-1115, eff. 8-27-12;
26 98-463, eff. 8-16-13.)

1 Section 40. The Illinois Income Tax Act is amended by
2 changing Section 806 as follows:

3 (35 ILCS 5/806)

4 Sec. 806. Exemption from penalty. An individual taxpayer
5 shall not be subject to a penalty for failing to pay estimated
6 tax as required by Section 803 if the taxpayer is 65 years of
7 age or older and is a permanent resident of a nursing home. For
8 purposes of this Section, "nursing home" means a skilled
9 nursing or intermediate long term care facility that is subject
10 to licensure by the Illinois Department of Public Health under
11 the Nursing Home Care Act, the Specialized Mental Health
12 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
13 the MC/DD Act.

14 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
15 eff. 7-13-12; 98-104, eff. 7-22-13.)

16 Section 45. The Use Tax Act is amended by changing Section
17 3-5 as follows:

18 (35 ILCS 105/3-5)

19 Sec. 3-5. Exemptions. Use of the following tangible
20 personal property is exempt from the tax imposed by this Act:

21 (1) Personal property purchased from a corporation,
22 society, association, foundation, institution, or

1 organization, other than a limited liability company, that is
2 organized and operated as a not-for-profit service enterprise
3 for the benefit of persons 65 years of age or older if the
4 personal property was not purchased by the enterprise for the
5 purpose of resale by the enterprise.

6 (2) Personal property purchased by a not-for-profit
7 Illinois county fair association for use in conducting,
8 operating, or promoting the county fair.

9 (3) Personal property purchased by a not-for-profit arts or
10 cultural organization that establishes, by proof required by
11 the Department by rule, that it has received an exemption under
12 Section 501(c)(3) of the Internal Revenue Code and that is
13 organized and operated primarily for the presentation or
14 support of arts or cultural programming, activities, or
15 services. These organizations include, but are not limited to,
16 music and dramatic arts organizations such as symphony
17 orchestras and theatrical groups, arts and cultural service
18 organizations, local arts councils, visual arts organizations,
19 and media arts organizations. On and after the effective date
20 of this amendatory Act of the 92nd General Assembly, however,
21 an entity otherwise eligible for this exemption shall not make
22 tax-free purchases unless it has an active identification
23 number issued by the Department.

24 (4) Personal property purchased by a governmental body, by
25 a corporation, society, association, foundation, or
26 institution organized and operated exclusively for charitable,

1 religious, or educational purposes, or by a not-for-profit
2 corporation, society, association, foundation, institution, or
3 organization that has no compensated officers or employees and
4 that is organized and operated primarily for the recreation of
5 persons 55 years of age or older. A limited liability company
6 may qualify for the exemption under this paragraph only if the
7 limited liability company is organized and operated
8 exclusively for educational purposes. On and after July 1,
9 1987, however, no entity otherwise eligible for this exemption
10 shall make tax-free purchases unless it has an active exemption
11 identification number issued by the Department.

12 (5) Until July 1, 2003, a passenger car that is a
13 replacement vehicle to the extent that the purchase price of
14 the car is subject to the Replacement Vehicle Tax.

15 (6) Until July 1, 2003 and beginning again on September 1,
16 2004 through August 30, 2014, graphic arts machinery and
17 equipment, including repair and replacement parts, both new and
18 used, and including that manufactured on special order,
19 certified by the purchaser to be used primarily for graphic
20 arts production, and including machinery and equipment
21 purchased for lease. Equipment includes chemicals or chemicals
22 acting as catalysts but only if the chemicals or chemicals
23 acting as catalysts effect a direct and immediate change upon a
24 graphic arts product.

25 (7) Farm chemicals.

26 (8) Legal tender, currency, medallions, or gold or silver

1 coinage issued by the State of Illinois, the government of the
2 United States of America, or the government of any foreign
3 country, and bullion.

4 (9) Personal property purchased from a teacher-sponsored
5 student organization affiliated with an elementary or
6 secondary school located in Illinois.

7 (10) A motor vehicle that is used for automobile renting,
8 as defined in the Automobile Renting Occupation and Use Tax
9 Act.

10 (11) Farm machinery and equipment, both new and used,
11 including that manufactured on special order, certified by the
12 purchaser to be used primarily for production agriculture or
13 State or federal agricultural programs, including individual
14 replacement parts for the machinery and equipment, including
15 machinery and equipment purchased for lease, and including
16 implements of husbandry defined in Section 1-130 of the
17 Illinois Vehicle Code, farm machinery and agricultural
18 chemical and fertilizer spreaders, and nurse wagons required to
19 be registered under Section 3-809 of the Illinois Vehicle Code,
20 but excluding other motor vehicles required to be registered
21 under the Illinois Vehicle Code. Horticultural polyhouses or
22 hoop houses used for propagating, growing, or overwintering
23 plants shall be considered farm machinery and equipment under
24 this item (11). Agricultural chemical tender tanks and dry
25 boxes shall include units sold separately from a motor vehicle
26 required to be licensed and units sold mounted on a motor

1 vehicle required to be licensed if the selling price of the
2 tender is separately stated.

3 Farm machinery and equipment shall include precision
4 farming equipment that is installed or purchased to be
5 installed on farm machinery and equipment including, but not
6 limited to, tractors, harvesters, sprayers, planters, seeders,
7 or spreaders. Precision farming equipment includes, but is not
8 limited to, soil testing sensors, computers, monitors,
9 software, global positioning and mapping systems, and other
10 such equipment.

11 Farm machinery and equipment also includes computers,
12 sensors, software, and related equipment used primarily in the
13 computer-assisted operation of production agriculture
14 facilities, equipment, and activities such as, but not limited
15 to, the collection, monitoring, and correlation of animal and
16 crop data for the purpose of formulating animal diets and
17 agricultural chemicals. This item (11) is exempt from the
18 provisions of Section 3-90.

19 (12) Until June 30, 2013, fuel and petroleum products sold
20 to or used by an air common carrier, certified by the carrier
21 to be used for consumption, shipment, or storage in the conduct
22 of its business as an air common carrier, for a flight destined
23 for or returning from a location or locations outside the
24 United States without regard to previous or subsequent domestic
25 stopovers.

26 Beginning July 1, 2013, fuel and petroleum products sold to

1 or used by an air carrier, certified by the carrier to be used
2 for consumption, shipment, or storage in the conduct of its
3 business as an air common carrier, for a flight that (i) is
4 engaged in foreign trade or is engaged in trade between the
5 United States and any of its possessions and (ii) transports at
6 least one individual or package for hire from the city of
7 origination to the city of final destination on the same
8 aircraft, without regard to a change in the flight number of
9 that aircraft.

10 (13) Proceeds of mandatory service charges separately
11 stated on customers' bills for the purchase and consumption of
12 food and beverages purchased at retail from a retailer, to the
13 extent that the proceeds of the service charge are in fact
14 turned over as tips or as a substitute for tips to the
15 employees who participate directly in preparing, serving,
16 hosting or cleaning up the food or beverage function with
17 respect to which the service charge is imposed.

18 (14) Until July 1, 2003, oil field exploration, drilling,
19 and production equipment, including (i) rigs and parts of rigs,
20 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
21 tubular goods, including casing and drill strings, (iii) pumps
22 and pump-jack units, (iv) storage tanks and flow lines, (v) any
23 individual replacement part for oil field exploration,
24 drilling, and production equipment, and (vi) machinery and
25 equipment purchased for lease; but excluding motor vehicles
26 required to be registered under the Illinois Vehicle Code.

1 (15) Photoprocessing machinery and equipment, including
2 repair and replacement parts, both new and used, including that
3 manufactured on special order, certified by the purchaser to be
4 used primarily for photoprocessing, and including
5 photoprocessing machinery and equipment purchased for lease.

6 (16) Coal and aggregate exploration, mining, off-highway
7 hauling, processing, maintenance, and reclamation equipment,
8 including replacement parts and equipment, and including
9 equipment purchased for lease, but excluding motor vehicles
10 required to be registered under the Illinois Vehicle Code. The
11 changes made to this Section by Public Act 97-767 apply on and
12 after July 1, 2003, but no claim for credit or refund is
13 allowed on or after August 16, 2013 (the effective date of
14 Public Act 98-456) for such taxes paid during the period
15 beginning July 1, 2003 and ending on August 16, 2013 (the
16 effective date of Public Act 98-456).

17 (17) Until July 1, 2003, distillation machinery and
18 equipment, sold as a unit or kit, assembled or installed by the
19 retailer, certified by the user to be used only for the
20 production of ethyl alcohol that will be used for consumption
21 as motor fuel or as a component of motor fuel for the personal
22 use of the user, and not subject to sale or resale.

23 (18) Manufacturing and assembling machinery and equipment
24 used primarily in the process of manufacturing or assembling
25 tangible personal property for wholesale or retail sale or
26 lease, whether that sale or lease is made directly by the

1 manufacturer or by some other person, whether the materials
2 used in the process are owned by the manufacturer or some other
3 person, or whether that sale or lease is made apart from or as
4 an incident to the seller's engaging in the service occupation
5 of producing machines, tools, dies, jigs, patterns, gauges, or
6 other similar items of no commercial value on special order for
7 a particular purchaser. The exemption provided by this
8 paragraph (18) does not include machinery and equipment used in
9 (i) the generation of electricity for wholesale or retail sale;
10 (ii) the generation or treatment of natural or artificial gas
11 for wholesale or retail sale that is delivered to customers
12 through pipes, pipelines, or mains; or (iii) the treatment of
13 water for wholesale or retail sale that is delivered to
14 customers through pipes, pipelines, or mains. The provisions of
15 Public Act 98-583 are declaratory of existing law as to the
16 meaning and scope of this exemption.

17 (19) Personal property delivered to a purchaser or
18 purchaser's donee inside Illinois when the purchase order for
19 that personal property was received by a florist located
20 outside Illinois who has a florist located inside Illinois
21 deliver the personal property.

22 (20) Semen used for artificial insemination of livestock
23 for direct agricultural production.

24 (21) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes. This item (21) is exempt from the provisions
4 of Section 3-90, and the exemption provided for under this item
5 (21) applies for all periods beginning May 30, 1995, but no
6 claim for credit or refund is allowed on or after January 1,
7 2008 for such taxes paid during the period beginning May 30,
8 2000 and ending on January 1, 2008.

9 (22) Computers and communications equipment utilized for
10 any hospital purpose and equipment used in the diagnosis,
11 analysis, or treatment of hospital patients purchased by a
12 lessor who leases the equipment, under a lease of one year or
13 longer executed or in effect at the time the lessor would
14 otherwise be subject to the tax imposed by this Act, to a
15 hospital that has been issued an active tax exemption
16 identification number by the Department under Section 1g of the
17 Retailers' Occupation Tax Act. If the equipment is leased in a
18 manner that does not qualify for this exemption or is used in
19 any other non-exempt manner, the lessor shall be liable for the
20 tax imposed under this Act or the Service Use Tax Act, as the
21 case may be, based on the fair market value of the property at
22 the time the non-qualifying use occurs. No lessor shall collect
23 or attempt to collect an amount (however designated) that
24 purports to reimburse that lessor for the tax imposed by this
25 Act or the Service Use Tax Act, as the case may be, if the tax
26 has not been paid by the lessor. If a lessor improperly

1 collects any such amount from the lessee, the lessee shall have
2 a legal right to claim a refund of that amount from the lessor.
3 If, however, that amount is not refunded to the lessee for any
4 reason, the lessor is liable to pay that amount to the
5 Department.

6 (23) Personal property purchased by a lessor who leases the
7 property, under a lease of one year or longer executed or in
8 effect at the time the lessor would otherwise be subject to the
9 tax imposed by this Act, to a governmental body that has been
10 issued an active sales tax exemption identification number by
11 the Department under Section 1g of the Retailers' Occupation
12 Tax Act. If the property is leased in a manner that does not
13 qualify for this exemption or used in any other non-exempt
14 manner, the lessor shall be liable for the tax imposed under
15 this Act or the Service Use Tax Act, as the case may be, based
16 on the fair market value of the property at the time the
17 non-qualifying use occurs. No lessor shall collect or attempt
18 to collect an amount (however designated) that purports to
19 reimburse that lessor for the tax imposed by this Act or the
20 Service Use Tax Act, as the case may be, if the tax has not been
21 paid by the lessor. If a lessor improperly collects any such
22 amount from the lessee, the lessee shall have a legal right to
23 claim a refund of that amount from the lessor. If, however,
24 that amount is not refunded to the lessee for any reason, the
25 lessor is liable to pay that amount to the Department.

26 (24) Beginning with taxable years ending on or after

1 December 31, 1995 and ending with taxable years ending on or
2 before December 31, 2004, personal property that is donated for
3 disaster relief to be used in a State or federally declared
4 disaster area in Illinois or bordering Illinois by a
5 manufacturer or retailer that is registered in this State to a
6 corporation, society, association, foundation, or institution
7 that has been issued a sales tax exemption identification
8 number by the Department that assists victims of the disaster
9 who reside within the declared disaster area.

10 (25) Beginning with taxable years ending on or after
11 December 31, 1995 and ending with taxable years ending on or
12 before December 31, 2004, personal property that is used in the
13 performance of infrastructure repairs in this State, including
14 but not limited to municipal roads and streets, access roads,
15 bridges, sidewalks, waste disposal systems, water and sewer
16 line extensions, water distribution and purification
17 facilities, storm water drainage and retention facilities, and
18 sewage treatment facilities, resulting from a State or
19 federally declared disaster in Illinois or bordering Illinois
20 when such repairs are initiated on facilities located in the
21 declared disaster area within 6 months after the disaster.

22 (26) Beginning July 1, 1999, game or game birds purchased
23 at a "game breeding and hunting preserve area" as that term is
24 used in the Wildlife Code. This paragraph is exempt from the
25 provisions of Section 3-90.

26 (27) A motor vehicle, as that term is defined in Section

1 1-146 of the Illinois Vehicle Code, that is donated to a
2 corporation, limited liability company, society, association,
3 foundation, or institution that is determined by the Department
4 to be organized and operated exclusively for educational
5 purposes. For purposes of this exemption, "a corporation,
6 limited liability company, society, association, foundation,
7 or institution organized and operated exclusively for
8 educational purposes" means all tax-supported public schools,
9 private schools that offer systematic instruction in useful
10 branches of learning by methods common to public schools and
11 that compare favorably in their scope and intensity with the
12 course of study presented in tax-supported schools, and
13 vocational or technical schools or institutes organized and
14 operated exclusively to provide a course of study of not less
15 than 6 weeks duration and designed to prepare individuals to
16 follow a trade or to pursue a manual, technical, mechanical,
17 industrial, business, or commercial occupation.

18 (28) Beginning January 1, 2000, personal property,
19 including food, purchased through fundraising events for the
20 benefit of a public or private elementary or secondary school,
21 a group of those schools, or one or more school districts if
22 the events are sponsored by an entity recognized by the school
23 district that consists primarily of volunteers and includes
24 parents and teachers of the school children. This paragraph
25 does not apply to fundraising events (i) for the benefit of
26 private home instruction or (ii) for which the fundraising

1 entity purchases the personal property sold at the events from
2 another individual or entity that sold the property for the
3 purpose of resale by the fundraising entity and that profits
4 from the sale to the fundraising entity. This paragraph is
5 exempt from the provisions of Section 3-90.

6 (29) Beginning January 1, 2000 and through December 31,
7 2001, new or used automatic vending machines that prepare and
8 serve hot food and beverages, including coffee, soup, and other
9 items, and replacement parts for these machines. Beginning
10 January 1, 2002 and through June 30, 2003, machines and parts
11 for machines used in commercial, coin-operated amusement and
12 vending business if a use or occupation tax is paid on the
13 gross receipts derived from the use of the commercial,
14 coin-operated amusement and vending machines. This paragraph
15 is exempt from the provisions of Section 3-90.

16 (30) Beginning January 1, 2001 and through June 30, 2016,
17 food for human consumption that is to be consumed off the
18 premises where it is sold (other than alcoholic beverages, soft
19 drinks, and food that has been prepared for immediate
20 consumption) and prescription and nonprescription medicines,
21 drugs, medical appliances, and insulin, urine testing
22 materials, syringes, and needles used by diabetics, for human
23 use, when purchased for use by a person receiving medical
24 assistance under Article V of the Illinois Public Aid Code who
25 resides in a licensed long-term care facility, as defined in
26 the Nursing Home Care Act, or in a licensed facility as defined

1 in the ID/DD Community Care Act, the MC/DD Act, or the
2 Specialized Mental Health Rehabilitation Act of 2013.

3 (31) Beginning on the effective date of this amendatory Act
4 of the 92nd General Assembly, computers and communications
5 equipment utilized for any hospital purpose and equipment used
6 in the diagnosis, analysis, or treatment of hospital patients
7 purchased by a lessor who leases the equipment, under a lease
8 of one year or longer executed or in effect at the time the
9 lessor would otherwise be subject to the tax imposed by this
10 Act, to a hospital that has been issued an active tax exemption
11 identification number by the Department under Section 1g of the
12 Retailers' Occupation Tax Act. If the equipment is leased in a
13 manner that does not qualify for this exemption or is used in
14 any other nonexempt manner, the lessor shall be liable for the
15 tax imposed under this Act or the Service Use Tax Act, as the
16 case may be, based on the fair market value of the property at
17 the time the nonqualifying use occurs. No lessor shall collect
18 or attempt to collect an amount (however designated) that
19 purports to reimburse that lessor for the tax imposed by this
20 Act or the Service Use Tax Act, as the case may be, if the tax
21 has not been paid by the lessor. If a lessor improperly
22 collects any such amount from the lessee, the lessee shall have
23 a legal right to claim a refund of that amount from the lessor.
24 If, however, that amount is not refunded to the lessee for any
25 reason, the lessor is liable to pay that amount to the
26 Department. This paragraph is exempt from the provisions of

1 Section 3-90.

2 (32) Beginning on the effective date of this amendatory Act
3 of the 92nd General Assembly, personal property purchased by a
4 lessor who leases the property, under a lease of one year or
5 longer executed or in effect at the time the lessor would
6 otherwise be subject to the tax imposed by this Act, to a
7 governmental body that has been issued an active sales tax
8 exemption identification number by the Department under
9 Section 1g of the Retailers' Occupation Tax Act. If the
10 property is leased in a manner that does not qualify for this
11 exemption or used in any other nonexempt manner, the lessor
12 shall be liable for the tax imposed under this Act or the
13 Service Use Tax Act, as the case may be, based on the fair
14 market value of the property at the time the nonqualifying use
15 occurs. No lessor shall collect or attempt to collect an amount
16 (however designated) that purports to reimburse that lessor for
17 the tax imposed by this Act or the Service Use Tax Act, as the
18 case may be, if the tax has not been paid by the lessor. If a
19 lessor improperly collects any such amount from the lessee, the
20 lessee shall have a legal right to claim a refund of that
21 amount from the lessor. If, however, that amount is not
22 refunded to the lessee for any reason, the lessor is liable to
23 pay that amount to the Department. This paragraph is exempt
24 from the provisions of Section 3-90.

25 (33) On and after July 1, 2003 and through June 30, 2004,
26 the use in this State of motor vehicles of the second division

1 with a gross vehicle weight in excess of 8,000 pounds and that
2 are subject to the commercial distribution fee imposed under
3 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
4 1, 2004 and through June 30, 2005, the use in this State of
5 motor vehicles of the second division: (i) with a gross vehicle
6 weight rating in excess of 8,000 pounds; (ii) that are subject
7 to the commercial distribution fee imposed under Section
8 3-815.1 of the Illinois Vehicle Code; and (iii) that are
9 primarily used for commercial purposes. Through June 30, 2005,
10 this exemption applies to repair and replacement parts added
11 after the initial purchase of such a motor vehicle if that
12 motor vehicle is used in a manner that would qualify for the
13 rolling stock exemption otherwise provided for in this Act. For
14 purposes of this paragraph, the term "used for commercial
15 purposes" means the transportation of persons or property in
16 furtherance of any commercial or industrial enterprise,
17 whether for-hire or not.

18 (34) Beginning January 1, 2008, tangible personal property
19 used in the construction or maintenance of a community water
20 supply, as defined under Section 3.145 of the Environmental
21 Protection Act, that is operated by a not-for-profit
22 corporation that holds a valid water supply permit issued under
23 Title IV of the Environmental Protection Act. This paragraph is
24 exempt from the provisions of Section 3-90.

25 (35) Beginning January 1, 2010, materials, parts,
26 equipment, components, and furnishings incorporated into or

1 upon an aircraft as part of the modification, refurbishment,
2 completion, replacement, repair, or maintenance of the
3 aircraft. This exemption includes consumable supplies used in
4 the modification, refurbishment, completion, replacement,
5 repair, and maintenance of aircraft, but excludes any
6 materials, parts, equipment, components, and consumable
7 supplies used in the modification, replacement, repair, and
8 maintenance of aircraft engines or power plants, whether such
9 engines or power plants are installed or uninstalled upon any
10 such aircraft. "Consumable supplies" include, but are not
11 limited to, adhesive, tape, sandpaper, general purpose
12 lubricants, cleaning solution, latex gloves, and protective
13 films. This exemption applies only to the use of qualifying
14 tangible personal property by persons who modify, refurbish,
15 complete, repair, replace, or maintain aircraft and who (i)
16 hold an Air Agency Certificate and are empowered to operate an
17 approved repair station by the Federal Aviation
18 Administration, (ii) have a Class IV Rating, and (iii) conduct
19 operations in accordance with Part 145 of the Federal Aviation
20 Regulations. The exemption does not include aircraft operated
21 by a commercial air carrier providing scheduled passenger air
22 service pursuant to authority issued under Part 121 or Part 129
23 of the Federal Aviation Regulations. The changes made to this
24 paragraph (35) by Public Act 98-534 are declarative of existing
25 law.

26 (36) Tangible personal property purchased by a

1 public-facilities corporation, as described in Section
2 11-65-10 of the Illinois Municipal Code, for purposes of
3 constructing or furnishing a municipal convention hall, but
4 only if the legal title to the municipal convention hall is
5 transferred to the municipality without any further
6 consideration by or on behalf of the municipality at the time
7 of the completion of the municipal convention hall or upon the
8 retirement or redemption of any bonds or other debt instruments
9 issued by the public-facilities corporation in connection with
10 the development of the municipal convention hall. This
11 exemption includes existing public-facilities corporations as
12 provided in Section 11-65-25 of the Illinois Municipal Code.
13 This paragraph is exempt from the provisions of Section 3-90.

14 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431,
15 eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12; 98-104,
16 eff. 7-22-13; 98-422, eff. 8-16-13; 98-456, eff. 8-16-13;
17 98-534, eff. 8-23-13; 98-574, eff. 1-1-14; 98-583, eff. 1-1-14;
18 98-756, eff. 7-16-14.)

19 Section 50. The Service Use Tax Act is amended by changing
20 Sections 3-5 and 3-10 as follows:

21 (35 ILCS 110/3-5)

22 Sec. 3-5. Exemptions. Use of the following tangible
23 personal property is exempt from the tax imposed by this Act:

24 (1) Personal property purchased from a corporation,

1 society, association, foundation, institution, or
2 organization, other than a limited liability company, that is
3 organized and operated as a not-for-profit service enterprise
4 for the benefit of persons 65 years of age or older if the
5 personal property was not purchased by the enterprise for the
6 purpose of resale by the enterprise.

7 (2) Personal property purchased by a non-profit Illinois
8 county fair association for use in conducting, operating, or
9 promoting the county fair.

10 (3) Personal property purchased by a not-for-profit arts or
11 cultural organization that establishes, by proof required by
12 the Department by rule, that it has received an exemption under
13 Section 501(c)(3) of the Internal Revenue Code and that is
14 organized and operated primarily for the presentation or
15 support of arts or cultural programming, activities, or
16 services. These organizations include, but are not limited to,
17 music and dramatic arts organizations such as symphony
18 orchestras and theatrical groups, arts and cultural service
19 organizations, local arts councils, visual arts organizations,
20 and media arts organizations. On and after the effective date
21 of this amendatory Act of the 92nd General Assembly, however,
22 an entity otherwise eligible for this exemption shall not make
23 tax-free purchases unless it has an active identification
24 number issued by the Department.

25 (4) Legal tender, currency, medallions, or gold or silver
26 coinage issued by the State of Illinois, the government of the

1 United States of America, or the government of any foreign
2 country, and bullion.

3 (5) Until July 1, 2003 and beginning again on September 1,
4 2004 through August 30, 2014, graphic arts machinery and
5 equipment, including repair and replacement parts, both new and
6 used, and including that manufactured on special order or
7 purchased for lease, certified by the purchaser to be used
8 primarily for graphic arts production. Equipment includes
9 chemicals or chemicals acting as catalysts but only if the
10 chemicals or chemicals acting as catalysts effect a direct and
11 immediate change upon a graphic arts product.

12 (6) Personal property purchased from a teacher-sponsored
13 student organization affiliated with an elementary or
14 secondary school located in Illinois.

15 (7) Farm machinery and equipment, both new and used,
16 including that manufactured on special order, certified by the
17 purchaser to be used primarily for production agriculture or
18 State or federal agricultural programs, including individual
19 replacement parts for the machinery and equipment, including
20 machinery and equipment purchased for lease, and including
21 implements of husbandry defined in Section 1-130 of the
22 Illinois Vehicle Code, farm machinery and agricultural
23 chemical and fertilizer spreaders, and nurse wagons required to
24 be registered under Section 3-809 of the Illinois Vehicle Code,
25 but excluding other motor vehicles required to be registered
26 under the Illinois Vehicle Code. Horticultural polyhouses or

1 hoop houses used for propagating, growing, or overwintering
2 plants shall be considered farm machinery and equipment under
3 this item (7). Agricultural chemical tender tanks and dry boxes
4 shall include units sold separately from a motor vehicle
5 required to be licensed and units sold mounted on a motor
6 vehicle required to be licensed if the selling price of the
7 tender is separately stated.

8 Farm machinery and equipment shall include precision
9 farming equipment that is installed or purchased to be
10 installed on farm machinery and equipment including, but not
11 limited to, tractors, harvesters, sprayers, planters, seeders,
12 or spreaders. Precision farming equipment includes, but is not
13 limited to, soil testing sensors, computers, monitors,
14 software, global positioning and mapping systems, and other
15 such equipment.

16 Farm machinery and equipment also includes computers,
17 sensors, software, and related equipment used primarily in the
18 computer-assisted operation of production agriculture
19 facilities, equipment, and activities such as, but not limited
20 to, the collection, monitoring, and correlation of animal and
21 crop data for the purpose of formulating animal diets and
22 agricultural chemicals. This item (7) is exempt from the
23 provisions of Section 3-75.

24 (8) Until June 30, 2013, fuel and petroleum products sold
25 to or used by an air common carrier, certified by the carrier
26 to be used for consumption, shipment, or storage in the conduct

1 of its business as an air common carrier, for a flight destined
2 for or returning from a location or locations outside the
3 United States without regard to previous or subsequent domestic
4 stopovers.

5 Beginning July 1, 2013, fuel and petroleum products sold to
6 or used by an air carrier, certified by the carrier to be used
7 for consumption, shipment, or storage in the conduct of its
8 business as an air common carrier, for a flight that (i) is
9 engaged in foreign trade or is engaged in trade between the
10 United States and any of its possessions and (ii) transports at
11 least one individual or package for hire from the city of
12 origination to the city of final destination on the same
13 aircraft, without regard to a change in the flight number of
14 that aircraft.

15 (9) Proceeds of mandatory service charges separately
16 stated on customers' bills for the purchase and consumption of
17 food and beverages acquired as an incident to the purchase of a
18 service from a serviceman, to the extent that the proceeds of
19 the service charge are in fact turned over as tips or as a
20 substitute for tips to the employees who participate directly
21 in preparing, serving, hosting or cleaning up the food or
22 beverage function with respect to which the service charge is
23 imposed.

24 (10) Until July 1, 2003, oil field exploration, drilling,
25 and production equipment, including (i) rigs and parts of rigs,
26 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and

1 tubular goods, including casing and drill strings, (iii) pumps
2 and pump-jack units, (iv) storage tanks and flow lines, (v) any
3 individual replacement part for oil field exploration,
4 drilling, and production equipment, and (vi) machinery and
5 equipment purchased for lease; but excluding motor vehicles
6 required to be registered under the Illinois Vehicle Code.

7 (11) Proceeds from the sale of photoprocessing machinery
8 and equipment, including repair and replacement parts, both new
9 and used, including that manufactured on special order,
10 certified by the purchaser to be used primarily for
11 photoprocessing, and including photoprocessing machinery and
12 equipment purchased for lease.

13 (12) Coal and aggregate exploration, mining, off-highway
14 hauling, processing, maintenance, and reclamation equipment,
15 including replacement parts and equipment, and including
16 equipment purchased for lease, but excluding motor vehicles
17 required to be registered under the Illinois Vehicle Code. The
18 changes made to this Section by Public Act 97-767 apply on and
19 after July 1, 2003, but no claim for credit or refund is
20 allowed on or after August 16, 2013 (the effective date of
21 Public Act 98-456) for such taxes paid during the period
22 beginning July 1, 2003 and ending on August 16, 2013 (the
23 effective date of Public Act 98-456).

24 (13) Semen used for artificial insemination of livestock
25 for direct agricultural production.

26 (14) Horses, or interests in horses, registered with and

1 meeting the requirements of any of the Arabian Horse Club
2 Registry of America, Appaloosa Horse Club, American Quarter
3 Horse Association, United States Trotting Association, or
4 Jockey Club, as appropriate, used for purposes of breeding or
5 racing for prizes. This item (14) is exempt from the provisions
6 of Section 3-75, and the exemption provided for under this item
7 (14) applies for all periods beginning May 30, 1995, but no
8 claim for credit or refund is allowed on or after the effective
9 date of this amendatory Act of the 95th General Assembly for
10 such taxes paid during the period beginning May 30, 2000 and
11 ending on the effective date of this amendatory Act of the 95th
12 General Assembly.

13 (15) Computers and communications equipment utilized for
14 any hospital purpose and equipment used in the diagnosis,
15 analysis, or treatment of hospital patients purchased by a
16 lessor who leases the equipment, under a lease of one year or
17 longer executed or in effect at the time the lessor would
18 otherwise be subject to the tax imposed by this Act, to a
19 hospital that has been issued an active tax exemption
20 identification number by the Department under Section 1g of the
21 Retailers' Occupation Tax Act. If the equipment is leased in a
22 manner that does not qualify for this exemption or is used in
23 any other non-exempt manner, the lessor shall be liable for the
24 tax imposed under this Act or the Use Tax Act, as the case may
25 be, based on the fair market value of the property at the time
26 the non-qualifying use occurs. No lessor shall collect or

1 attempt to collect an amount (however designated) that purports
2 to reimburse that lessor for the tax imposed by this Act or the
3 Use Tax Act, as the case may be, if the tax has not been paid by
4 the lessor. If a lessor improperly collects any such amount
5 from the lessee, the lessee shall have a legal right to claim a
6 refund of that amount from the lessor. If, however, that amount
7 is not refunded to the lessee for any reason, the lessor is
8 liable to pay that amount to the Department.

9 (16) Personal property purchased by a lessor who leases the
10 property, under a lease of one year or longer executed or in
11 effect at the time the lessor would otherwise be subject to the
12 tax imposed by this Act, to a governmental body that has been
13 issued an active tax exemption identification number by the
14 Department under Section 1g of the Retailers' Occupation Tax
15 Act. If the property is leased in a manner that does not
16 qualify for this exemption or is used in any other non-exempt
17 manner, the lessor shall be liable for the tax imposed under
18 this Act or the Use Tax Act, as the case may be, based on the
19 fair market value of the property at the time the
20 non-qualifying use occurs. No lessor shall collect or attempt
21 to collect an amount (however designated) that purports to
22 reimburse that lessor for the tax imposed by this Act or the
23 Use Tax Act, as the case may be, if the tax has not been paid by
24 the lessor. If a lessor improperly collects any such amount
25 from the lessee, the lessee shall have a legal right to claim a
26 refund of that amount from the lessor. If, however, that amount

1 is not refunded to the lessee for any reason, the lessor is
2 liable to pay that amount to the Department.

3 (17) Beginning with taxable years ending on or after
4 December 31, 1995 and ending with taxable years ending on or
5 before December 31, 2004, personal property that is donated for
6 disaster relief to be used in a State or federally declared
7 disaster area in Illinois or bordering Illinois by a
8 manufacturer or retailer that is registered in this State to a
9 corporation, society, association, foundation, or institution
10 that has been issued a sales tax exemption identification
11 number by the Department that assists victims of the disaster
12 who reside within the declared disaster area.

13 (18) Beginning with taxable years ending on or after
14 December 31, 1995 and ending with taxable years ending on or
15 before December 31, 2004, personal property that is used in the
16 performance of infrastructure repairs in this State, including
17 but not limited to municipal roads and streets, access roads,
18 bridges, sidewalks, waste disposal systems, water and sewer
19 line extensions, water distribution and purification
20 facilities, storm water drainage and retention facilities, and
21 sewage treatment facilities, resulting from a State or
22 federally declared disaster in Illinois or bordering Illinois
23 when such repairs are initiated on facilities located in the
24 declared disaster area within 6 months after the disaster.

25 (19) Beginning July 1, 1999, game or game birds purchased
26 at a "game breeding and hunting preserve area" as that term is

1 used in the Wildlife Code. This paragraph is exempt from the
2 provisions of Section 3-75.

3 (20) A motor vehicle, as that term is defined in Section
4 1-146 of the Illinois Vehicle Code, that is donated to a
5 corporation, limited liability company, society, association,
6 foundation, or institution that is determined by the Department
7 to be organized and operated exclusively for educational
8 purposes. For purposes of this exemption, "a corporation,
9 limited liability company, society, association, foundation,
10 or institution organized and operated exclusively for
11 educational purposes" means all tax-supported public schools,
12 private schools that offer systematic instruction in useful
13 branches of learning by methods common to public schools and
14 that compare favorably in their scope and intensity with the
15 course of study presented in tax-supported schools, and
16 vocational or technical schools or institutes organized and
17 operated exclusively to provide a course of study of not less
18 than 6 weeks duration and designed to prepare individuals to
19 follow a trade or to pursue a manual, technical, mechanical,
20 industrial, business, or commercial occupation.

21 (21) Beginning January 1, 2000, personal property,
22 including food, purchased through fundraising events for the
23 benefit of a public or private elementary or secondary school,
24 a group of those schools, or one or more school districts if
25 the events are sponsored by an entity recognized by the school
26 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph
2 does not apply to fundraising events (i) for the benefit of
3 private home instruction or (ii) for which the fundraising
4 entity purchases the personal property sold at the events from
5 another individual or entity that sold the property for the
6 purpose of resale by the fundraising entity and that profits
7 from the sale to the fundraising entity. This paragraph is
8 exempt from the provisions of Section 3-75.

9 (22) Beginning January 1, 2000 and through December 31,
10 2001, new or used automatic vending machines that prepare and
11 serve hot food and beverages, including coffee, soup, and other
12 items, and replacement parts for these machines. Beginning
13 January 1, 2002 and through June 30, 2003, machines and parts
14 for machines used in commercial, coin-operated amusement and
15 vending business if a use or occupation tax is paid on the
16 gross receipts derived from the use of the commercial,
17 coin-operated amusement and vending machines. This paragraph
18 is exempt from the provisions of Section 3-75.

19 (23) Beginning August 23, 2001 and through June 30, 2016,
20 food for human consumption that is to be consumed off the
21 premises where it is sold (other than alcoholic beverages, soft
22 drinks, and food that has been prepared for immediate
23 consumption) and prescription and nonprescription medicines,
24 drugs, medical appliances, and insulin, urine testing
25 materials, syringes, and needles used by diabetics, for human
26 use, when purchased for use by a person receiving medical

1 assistance under Article V of the Illinois Public Aid Code who
2 resides in a licensed long-term care facility, as defined in
3 the Nursing Home Care Act, or in a licensed facility as defined
4 in the ID/DD Community Care Act, the MC/DD Act, or the
5 Specialized Mental Health Rehabilitation Act of 2013.

6 (24) Beginning on the effective date of this amendatory Act
7 of the 92nd General Assembly, computers and communications
8 equipment utilized for any hospital purpose and equipment used
9 in the diagnosis, analysis, or treatment of hospital patients
10 purchased by a lessor who leases the equipment, under a lease
11 of one year or longer executed or in effect at the time the
12 lessor would otherwise be subject to the tax imposed by this
13 Act, to a hospital that has been issued an active tax exemption
14 identification number by the Department under Section 1g of the
15 Retailers' Occupation Tax Act. If the equipment is leased in a
16 manner that does not qualify for this exemption or is used in
17 any other nonexempt manner, the lessor shall be liable for the
18 tax imposed under this Act or the Use Tax Act, as the case may
19 be, based on the fair market value of the property at the time
20 the nonqualifying use occurs. No lessor shall collect or
21 attempt to collect an amount (however designated) that purports
22 to reimburse that lessor for the tax imposed by this Act or the
23 Use Tax Act, as the case may be, if the tax has not been paid by
24 the lessor. If a lessor improperly collects any such amount
25 from the lessee, the lessee shall have a legal right to claim a
26 refund of that amount from the lessor. If, however, that amount

1 is not refunded to the lessee for any reason, the lessor is
2 liable to pay that amount to the Department. This paragraph is
3 exempt from the provisions of Section 3-75.

4 (25) Beginning on the effective date of this amendatory Act
5 of the 92nd General Assembly, personal property purchased by a
6 lessor who leases the property, under a lease of one year or
7 longer executed or in effect at the time the lessor would
8 otherwise be subject to the tax imposed by this Act, to a
9 governmental body that has been issued an active tax exemption
10 identification number by the Department under Section 1g of the
11 Retailers' Occupation Tax Act. If the property is leased in a
12 manner that does not qualify for this exemption or is used in
13 any other nonexempt manner, the lessor shall be liable for the
14 tax imposed under this Act or the Use Tax Act, as the case may
15 be, based on the fair market value of the property at the time
16 the nonqualifying use occurs. No lessor shall collect or
17 attempt to collect an amount (however designated) that purports
18 to reimburse that lessor for the tax imposed by this Act or the
19 Use Tax Act, as the case may be, if the tax has not been paid by
20 the lessor. If a lessor improperly collects any such amount
21 from the lessee, the lessee shall have a legal right to claim a
22 refund of that amount from the lessor. If, however, that amount
23 is not refunded to the lessee for any reason, the lessor is
24 liable to pay that amount to the Department. This paragraph is
25 exempt from the provisions of Section 3-75.

26 (26) Beginning January 1, 2008, tangible personal property

1 used in the construction or maintenance of a community water
2 supply, as defined under Section 3.145 of the Environmental
3 Protection Act, that is operated by a not-for-profit
4 corporation that holds a valid water supply permit issued under
5 Title IV of the Environmental Protection Act. This paragraph is
6 exempt from the provisions of Section 3-75.

7 (27) Beginning January 1, 2010, materials, parts,
8 equipment, components, and furnishings incorporated into or
9 upon an aircraft as part of the modification, refurbishment,
10 completion, replacement, repair, or maintenance of the
11 aircraft. This exemption includes consumable supplies used in
12 the modification, refurbishment, completion, replacement,
13 repair, and maintenance of aircraft, but excludes any
14 materials, parts, equipment, components, and consumable
15 supplies used in the modification, replacement, repair, and
16 maintenance of aircraft engines or power plants, whether such
17 engines or power plants are installed or uninstalled upon any
18 such aircraft. "Consumable supplies" include, but are not
19 limited to, adhesive, tape, sandpaper, general purpose
20 lubricants, cleaning solution, latex gloves, and protective
21 films. This exemption applies only to the use of qualifying
22 tangible personal property transferred incident to the
23 modification, refurbishment, completion, replacement, repair,
24 or maintenance of aircraft by persons who (i) hold an Air
25 Agency Certificate and are empowered to operate an approved
26 repair station by the Federal Aviation Administration, (ii)

1 have a Class IV Rating, and (iii) conduct operations in
2 accordance with Part 145 of the Federal Aviation Regulations.
3 The exemption does not include aircraft operated by a
4 commercial air carrier providing scheduled passenger air
5 service pursuant to authority issued under Part 121 or Part 129
6 of the Federal Aviation Regulations. The changes made to this
7 paragraph (27) by Public Act 98-534 are declarative of existing
8 law.

9 (28) Tangible personal property purchased by a
10 public-facilities corporation, as described in Section
11 11-65-10 of the Illinois Municipal Code, for purposes of
12 constructing or furnishing a municipal convention hall, but
13 only if the legal title to the municipal convention hall is
14 transferred to the municipality without any further
15 consideration by or on behalf of the municipality at the time
16 of the completion of the municipal convention hall or upon the
17 retirement or redemption of any bonds or other debt instruments
18 issued by the public-facilities corporation in connection with
19 the development of the municipal convention hall. This
20 exemption includes existing public-facilities corporations as
21 provided in Section 11-65-25 of the Illinois Municipal Code.
22 This paragraph is exempt from the provisions of Section 3-75.

23 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431,
24 eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12; 98-104,
25 eff. 7-22-13; 98-422, eff. 8-16-13; 98-456, eff. 8-16-13;
26 98-534, eff. 8-23-13; 98-756, eff. 7-16-14.)

1 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

2 Sec. 3-10. Rate of tax. Unless otherwise provided in this
3 Section, the tax imposed by this Act is at the rate of 6.25% of
4 the selling price of tangible personal property transferred as
5 an incident to the sale of service, but, for the purpose of
6 computing this tax, in no event shall the selling price be less
7 than the cost price of the property to the serviceman.

8 Beginning on July 1, 2000 and through December 31, 2000,
9 with respect to motor fuel, as defined in Section 1.1 of the
10 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
11 the Use Tax Act, the tax is imposed at the rate of 1.25%.

12 With respect to gasohol, as defined in the Use Tax Act, the
13 tax imposed by this Act applies to (i) 70% of the selling price
14 of property transferred as an incident to the sale of service
15 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
16 of the selling price of property transferred as an incident to
17 the sale of service on or after July 1, 2003 and on or before
18 December 31, 2018, and (iii) 100% of the selling price
19 thereafter. If, at any time, however, the tax under this Act on
20 sales of gasohol, as defined in the Use Tax Act, is imposed at
21 the rate of 1.25%, then the tax imposed by this Act applies to
22 100% of the proceeds of sales of gasohol made during that time.

23 With respect to majority blended ethanol fuel, as defined
24 in the Use Tax Act, the tax imposed by this Act does not apply
25 to the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 and on or before
2 December 31, 2018 but applies to 100% of the selling price
3 thereafter.

4 With respect to biodiesel blends, as defined in the Use Tax
5 Act, with no less than 1% and no more than 10% biodiesel, the
6 tax imposed by this Act applies to (i) 80% of the selling price
7 of property transferred as an incident to the sale of service
8 on or after July 1, 2003 and on or before December 31, 2018 and
9 (ii) 100% of the proceeds of the selling price thereafter. If,
10 at any time, however, the tax under this Act on sales of
11 biodiesel blends, as defined in the Use Tax Act, with no less
12 than 1% and no more than 10% biodiesel is imposed at the rate
13 of 1.25%, then the tax imposed by this Act applies to 100% of
14 the proceeds of sales of biodiesel blends with no less than 1%
15 and no more than 10% biodiesel made during that time.

16 With respect to 100% biodiesel, as defined in the Use Tax
17 Act, and biodiesel blends, as defined in the Use Tax Act, with
18 more than 10% but no more than 99% biodiesel, the tax imposed
19 by this Act does not apply to the proceeds of the selling price
20 of property transferred as an incident to the sale of service
21 on or after July 1, 2003 and on or before December 31, 2018 but
22 applies to 100% of the selling price thereafter.

23 At the election of any registered serviceman made for each
24 fiscal year, sales of service in which the aggregate annual
25 cost price of tangible personal property transferred as an
26 incident to the sales of service is less than 35%, or 75% in

1 the case of servicemen transferring prescription drugs or
2 servicemen engaged in graphic arts production, of the aggregate
3 annual total gross receipts from all sales of service, the tax
4 imposed by this Act shall be based on the serviceman's cost
5 price of the tangible personal property transferred as an
6 incident to the sale of those services.

7 The tax shall be imposed at the rate of 1% on food prepared
8 for immediate consumption and transferred incident to a sale of
9 service subject to this Act or the Service Occupation Tax Act
10 by an entity licensed under the Hospital Licensing Act, the
11 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD
12 Act, the Specialized Mental Health Rehabilitation Act of 2013,
13 or the Child Care Act of 1969. The tax shall also be imposed at
14 the rate of 1% on food for human consumption that is to be
15 consumed off the premises where it is sold (other than
16 alcoholic beverages, soft drinks, and food that has been
17 prepared for immediate consumption and is not otherwise
18 included in this paragraph) and prescription and
19 nonprescription medicines, drugs, medical appliances,
20 modifications to a motor vehicle for the purpose of rendering
21 it usable by a disabled person, and insulin, urine testing
22 materials, syringes, and needles used by diabetics, for human
23 use. For the purposes of this Section, until September 1, 2009:
24 the term "soft drinks" means any complete, finished,
25 ready-to-use, non-alcoholic drink, whether carbonated or not,
26 including but not limited to soda water, cola, fruit juice,

1 vegetable juice, carbonated water, and all other preparations
2 commonly known as soft drinks of whatever kind or description
3 that are contained in any closed or sealed bottle, can, carton,
4 or container, regardless of size; but "soft drinks" does not
5 include coffee, tea, non-carbonated water, infant formula,
6 milk or milk products as defined in the Grade A Pasteurized
7 Milk and Milk Products Act, or drinks containing 50% or more
8 natural fruit or vegetable juice.

9 Notwithstanding any other provisions of this Act,
10 beginning September 1, 2009, "soft drinks" means non-alcoholic
11 beverages that contain natural or artificial sweeteners. "Soft
12 drinks" do not include beverages that contain milk or milk
13 products, soy, rice or similar milk substitutes, or greater
14 than 50% of vegetable or fruit juice by volume.

15 Until August 1, 2009, and notwithstanding any other
16 provisions of this Act, "food for human consumption that is to
17 be consumed off the premises where it is sold" includes all
18 food sold through a vending machine, except soft drinks and
19 food products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine. Beginning
21 August 1, 2009, and notwithstanding any other provisions of
22 this Act, "food for human consumption that is to be consumed
23 off the premises where it is sold" includes all food sold
24 through a vending machine, except soft drinks, candy, and food
25 products that are dispensed hot from a vending machine,
26 regardless of the location of the vending machine.

1 Notwithstanding any other provisions of this Act,
2 beginning September 1, 2009, "food for human consumption that
3 is to be consumed off the premises where it is sold" does not
4 include candy. For purposes of this Section, "candy" means a
5 preparation of sugar, honey, or other natural or artificial
6 sweeteners in combination with chocolate, fruits, nuts or other
7 ingredients or flavorings in the form of bars, drops, or
8 pieces. "Candy" does not include any preparation that contains
9 flour or requires refrigeration.

10 Notwithstanding any other provisions of this Act,
11 beginning September 1, 2009, "nonprescription medicines and
12 drugs" does not include grooming and hygiene products. For
13 purposes of this Section, "grooming and hygiene products"
14 includes, but is not limited to, soaps and cleaning solutions,
15 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
16 lotions and screens, unless those products are available by
17 prescription only, regardless of whether the products meet the
18 definition of "over-the-counter-drugs". For the purposes of
19 this paragraph, "over-the-counter-drug" means a drug for human
20 use that contains a label that identifies the product as a drug
21 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
22 label includes:

23 (A) A "Drug Facts" panel; or

24 (B) A statement of the "active ingredient(s)" with a
25 list of those ingredients contained in the compound,
26 substance or preparation.

1 Beginning on January 1, 2014 (the effective date of Public
2 Act 98-122), "prescription and nonprescription medicines and
3 drugs" includes medical cannabis purchased from a registered
4 dispensing organization under the Compassionate Use of Medical
5 Cannabis Pilot Program Act.

6 If the property that is acquired from a serviceman is
7 acquired outside Illinois and used outside Illinois before
8 being brought to Illinois for use here and is taxable under
9 this Act, the "selling price" on which the tax is computed
10 shall be reduced by an amount that represents a reasonable
11 allowance for depreciation for the period of prior out-of-state
12 use.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-636,
14 eff. 6-1-12; 98-104, eff. 7-22-13; 98-122, eff. 1-1-14; 98-756,
15 eff. 7-16-14.)

16 Section 55. The Service Occupation Tax Act is amended by
17 changing Sections 3-5 and 3-10 as follows:

18 (35 ILCS 115/3-5)

19 Sec. 3-5. Exemptions. The following tangible personal
20 property is exempt from the tax imposed by this Act:

21 (1) Personal property sold by a corporation, society,
22 association, foundation, institution, or organization, other
23 than a limited liability company, that is organized and
24 operated as a not-for-profit service enterprise for the benefit

1 of persons 65 years of age or older if the personal property
2 was not purchased by the enterprise for the purpose of resale
3 by the enterprise.

4 (2) Personal property purchased by a not-for-profit
5 Illinois county fair association for use in conducting,
6 operating, or promoting the county fair.

7 (3) Personal property purchased by any not-for-profit arts
8 or cultural organization that establishes, by proof required by
9 the Department by rule, that it has received an exemption under
10 Section 501(c)(3) of the Internal Revenue Code and that is
11 organized and operated primarily for the presentation or
12 support of arts or cultural programming, activities, or
13 services. These organizations include, but are not limited to,
14 music and dramatic arts organizations such as symphony
15 orchestras and theatrical groups, arts and cultural service
16 organizations, local arts councils, visual arts organizations,
17 and media arts organizations. On and after the effective date
18 of this amendatory Act of the 92nd General Assembly, however,
19 an entity otherwise eligible for this exemption shall not make
20 tax-free purchases unless it has an active identification
21 number issued by the Department.

22 (4) Legal tender, currency, medallions, or gold or silver
23 coinage issued by the State of Illinois, the government of the
24 United States of America, or the government of any foreign
25 country, and bullion.

26 (5) Until July 1, 2003 and beginning again on September 1,

1 2004 through August 30, 2014, graphic arts machinery and
2 equipment, including repair and replacement parts, both new and
3 used, and including that manufactured on special order or
4 purchased for lease, certified by the purchaser to be used
5 primarily for graphic arts production. Equipment includes
6 chemicals or chemicals acting as catalysts but only if the
7 chemicals or chemicals acting as catalysts effect a direct and
8 immediate change upon a graphic arts product.

9 (6) Personal property sold by a teacher-sponsored student
10 organization affiliated with an elementary or secondary school
11 located in Illinois.

12 (7) Farm machinery and equipment, both new and used,
13 including that manufactured on special order, certified by the
14 purchaser to be used primarily for production agriculture or
15 State or federal agricultural programs, including individual
16 replacement parts for the machinery and equipment, including
17 machinery and equipment purchased for lease, and including
18 implements of husbandry defined in Section 1-130 of the
19 Illinois Vehicle Code, farm machinery and agricultural
20 chemical and fertilizer spreaders, and nurse wagons required to
21 be registered under Section 3-809 of the Illinois Vehicle Code,
22 but excluding other motor vehicles required to be registered
23 under the Illinois Vehicle Code. Horticultural polyhouses or
24 hoop houses used for propagating, growing, or overwintering
25 plants shall be considered farm machinery and equipment under
26 this item (7). Agricultural chemical tender tanks and dry boxes

1 shall include units sold separately from a motor vehicle
2 required to be licensed and units sold mounted on a motor
3 vehicle required to be licensed if the selling price of the
4 tender is separately stated.

5 Farm machinery and equipment shall include precision
6 farming equipment that is installed or purchased to be
7 installed on farm machinery and equipment including, but not
8 limited to, tractors, harvesters, sprayers, planters, seeders,
9 or spreaders. Precision farming equipment includes, but is not
10 limited to, soil testing sensors, computers, monitors,
11 software, global positioning and mapping systems, and other
12 such equipment.

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in the
15 computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not limited
17 to, the collection, monitoring, and correlation of animal and
18 crop data for the purpose of formulating animal diets and
19 agricultural chemicals. This item (7) is exempt from the
20 provisions of Section 3-55.

21 (8) Until June 30, 2013, fuel and petroleum products sold
22 to or used by an air common carrier, certified by the carrier
23 to be used for consumption, shipment, or storage in the conduct
24 of its business as an air common carrier, for a flight destined
25 for or returning from a location or locations outside the
26 United States without regard to previous or subsequent domestic

1 stopovers.

2 Beginning July 1, 2013, fuel and petroleum products sold to
3 or used by an air carrier, certified by the carrier to be used
4 for consumption, shipment, or storage in the conduct of its
5 business as an air common carrier, for a flight that (i) is
6 engaged in foreign trade or is engaged in trade between the
7 United States and any of its possessions and (ii) transports at
8 least one individual or package for hire from the city of
9 origination to the city of final destination on the same
10 aircraft, without regard to a change in the flight number of
11 that aircraft.

12 (9) Proceeds of mandatory service charges separately
13 stated on customers' bills for the purchase and consumption of
14 food and beverages, to the extent that the proceeds of the
15 service charge are in fact turned over as tips or as a
16 substitute for tips to the employees who participate directly
17 in preparing, serving, hosting or cleaning up the food or
18 beverage function with respect to which the service charge is
19 imposed.

20 (10) Until July 1, 2003, oil field exploration, drilling,
21 and production equipment, including (i) rigs and parts of rigs,
22 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
23 tubular goods, including casing and drill strings, (iii) pumps
24 and pump-jack units, (iv) storage tanks and flow lines, (v) any
25 individual replacement part for oil field exploration,
26 drilling, and production equipment, and (vi) machinery and

1 equipment purchased for lease; but excluding motor vehicles
2 required to be registered under the Illinois Vehicle Code.

3 (11) Photoprocessing machinery and equipment, including
4 repair and replacement parts, both new and used, including that
5 manufactured on special order, certified by the purchaser to be
6 used primarily for photoprocessing, and including
7 photoprocessing machinery and equipment purchased for lease.

8 (12) Coal and aggregate exploration, mining, off-highway
9 hauling, processing, maintenance, and reclamation equipment,
10 including replacement parts and equipment, and including
11 equipment purchased for lease, but excluding motor vehicles
12 required to be registered under the Illinois Vehicle Code. The
13 changes made to this Section by Public Act 97-767 apply on and
14 after July 1, 2003, but no claim for credit or refund is
15 allowed on or after August 16, 2013 (the effective date of
16 Public Act 98-456) for such taxes paid during the period
17 beginning July 1, 2003 and ending on August 16, 2013 (the
18 effective date of Public Act 98-456).

19 (13) Beginning January 1, 1992 and through June 30, 2016,
20 food for human consumption that is to be consumed off the
21 premises where it is sold (other than alcoholic beverages, soft
22 drinks and food that has been prepared for immediate
23 consumption) and prescription and non-prescription medicines,
24 drugs, medical appliances, and insulin, urine testing
25 materials, syringes, and needles used by diabetics, for human
26 use, when purchased for use by a person receiving medical

1 assistance under Article V of the Illinois Public Aid Code who
2 resides in a licensed long-term care facility, as defined in
3 the Nursing Home Care Act, or in a licensed facility as defined
4 in the ID/DD Community Care Act, the MC/DD Act, or the
5 Specialized Mental Health Rehabilitation Act of 2013.

6 (14) Semen used for artificial insemination of livestock
7 for direct agricultural production.

8 (15) Horses, or interests in horses, registered with and
9 meeting the requirements of any of the Arabian Horse Club
10 Registry of America, Appaloosa Horse Club, American Quarter
11 Horse Association, United States Trotting Association, or
12 Jockey Club, as appropriate, used for purposes of breeding or
13 racing for prizes. This item (15) is exempt from the provisions
14 of Section 3-55, and the exemption provided for under this item
15 (15) applies for all periods beginning May 30, 1995, but no
16 claim for credit or refund is allowed on or after January 1,
17 2008 (the effective date of Public Act 95-88) for such taxes
18 paid during the period beginning May 30, 2000 and ending on
19 January 1, 2008 (the effective date of Public Act 95-88).

20 (16) Computers and communications equipment utilized for
21 any hospital purpose and equipment used in the diagnosis,
22 analysis, or treatment of hospital patients sold to a lessor
23 who leases the equipment, under a lease of one year or longer
24 executed or in effect at the time of the purchase, to a
25 hospital that has been issued an active tax exemption
26 identification number by the Department under Section 1g of the

1 Retailers' Occupation Tax Act.

2 (17) Personal property sold to a lessor who leases the
3 property, under a lease of one year or longer executed or in
4 effect at the time of the purchase, to a governmental body that
5 has been issued an active tax exemption identification number
6 by the Department under Section 1g of the Retailers' Occupation
7 Tax Act.

8 (18) Beginning with taxable years ending on or after
9 December 31, 1995 and ending with taxable years ending on or
10 before December 31, 2004, personal property that is donated for
11 disaster relief to be used in a State or federally declared
12 disaster area in Illinois or bordering Illinois by a
13 manufacturer or retailer that is registered in this State to a
14 corporation, society, association, foundation, or institution
15 that has been issued a sales tax exemption identification
16 number by the Department that assists victims of the disaster
17 who reside within the declared disaster area.

18 (19) Beginning with taxable years ending on or after
19 December 31, 1995 and ending with taxable years ending on or
20 before December 31, 2004, personal property that is used in the
21 performance of infrastructure repairs in this State, including
22 but not limited to municipal roads and streets, access roads,
23 bridges, sidewalks, waste disposal systems, water and sewer
24 line extensions, water distribution and purification
25 facilities, storm water drainage and retention facilities, and
26 sewage treatment facilities, resulting from a State or

1 federally declared disaster in Illinois or bordering Illinois
2 when such repairs are initiated on facilities located in the
3 declared disaster area within 6 months after the disaster.

4 (20) Beginning July 1, 1999, game or game birds sold at a
5 "game breeding and hunting preserve area" as that term is used
6 in the Wildlife Code. This paragraph is exempt from the
7 provisions of Section 3-55.

8 (21) A motor vehicle, as that term is defined in Section
9 1-146 of the Illinois Vehicle Code, that is donated to a
10 corporation, limited liability company, society, association,
11 foundation, or institution that is determined by the Department
12 to be organized and operated exclusively for educational
13 purposes. For purposes of this exemption, "a corporation,
14 limited liability company, society, association, foundation,
15 or institution organized and operated exclusively for
16 educational purposes" means all tax-supported public schools,
17 private schools that offer systematic instruction in useful
18 branches of learning by methods common to public schools and
19 that compare favorably in their scope and intensity with the
20 course of study presented in tax-supported schools, and
21 vocational or technical schools or institutes organized and
22 operated exclusively to provide a course of study of not less
23 than 6 weeks duration and designed to prepare individuals to
24 follow a trade or to pursue a manual, technical, mechanical,
25 industrial, business, or commercial occupation.

26 (22) Beginning January 1, 2000, personal property,

1 including food, purchased through fundraising events for the
2 benefit of a public or private elementary or secondary school,
3 a group of those schools, or one or more school districts if
4 the events are sponsored by an entity recognized by the school
5 district that consists primarily of volunteers and includes
6 parents and teachers of the school children. This paragraph
7 does not apply to fundraising events (i) for the benefit of
8 private home instruction or (ii) for which the fundraising
9 entity purchases the personal property sold at the events from
10 another individual or entity that sold the property for the
11 purpose of resale by the fundraising entity and that profits
12 from the sale to the fundraising entity. This paragraph is
13 exempt from the provisions of Section 3-55.

14 (23) Beginning January 1, 2000 and through December 31,
15 2001, new or used automatic vending machines that prepare and
16 serve hot food and beverages, including coffee, soup, and other
17 items, and replacement parts for these machines. Beginning
18 January 1, 2002 and through June 30, 2003, machines and parts
19 for machines used in commercial, coin-operated amusement and
20 vending business if a use or occupation tax is paid on the
21 gross receipts derived from the use of the commercial,
22 coin-operated amusement and vending machines. This paragraph
23 is exempt from the provisions of Section 3-55.

24 (24) Beginning on the effective date of this amendatory Act
25 of the 92nd General Assembly, computers and communications
26 equipment utilized for any hospital purpose and equipment used

1 in the diagnosis, analysis, or treatment of hospital patients
2 sold to a lessor who leases the equipment, under a lease of one
3 year or longer executed or in effect at the time of the
4 purchase, to a hospital that has been issued an active tax
5 exemption identification number by the Department under
6 Section 1g of the Retailers' Occupation Tax Act. This paragraph
7 is exempt from the provisions of Section 3-55.

8 (25) Beginning on the effective date of this amendatory Act
9 of the 92nd General Assembly, personal property sold to a
10 lessor who leases the property, under a lease of one year or
11 longer executed or in effect at the time of the purchase, to a
12 governmental body that has been issued an active tax exemption
13 identification number by the Department under Section 1g of the
14 Retailers' Occupation Tax Act. This paragraph is exempt from
15 the provisions of Section 3-55.

16 (26) Beginning on January 1, 2002 and through June 30,
17 2016, tangible personal property purchased from an Illinois
18 retailer by a taxpayer engaged in centralized purchasing
19 activities in Illinois who will, upon receipt of the property
20 in Illinois, temporarily store the property in Illinois (i) for
21 the purpose of subsequently transporting it outside this State
22 for use or consumption thereafter solely outside this State or
23 (ii) for the purpose of being processed, fabricated, or
24 manufactured into, attached to, or incorporated into other
25 tangible personal property to be transported outside this State
26 and thereafter used or consumed solely outside this State. The

1 Director of Revenue shall, pursuant to rules adopted in
2 accordance with the Illinois Administrative Procedure Act,
3 issue a permit to any taxpayer in good standing with the
4 Department who is eligible for the exemption under this
5 paragraph (26). The permit issued under this paragraph (26)
6 shall authorize the holder, to the extent and in the manner
7 specified in the rules adopted under this Act, to purchase
8 tangible personal property from a retailer exempt from the
9 taxes imposed by this Act. Taxpayers shall maintain all
10 necessary books and records to substantiate the use and
11 consumption of all such tangible personal property outside of
12 the State of Illinois.

13 (27) Beginning January 1, 2008, tangible personal property
14 used in the construction or maintenance of a community water
15 supply, as defined under Section 3.145 of the Environmental
16 Protection Act, that is operated by a not-for-profit
17 corporation that holds a valid water supply permit issued under
18 Title IV of the Environmental Protection Act. This paragraph is
19 exempt from the provisions of Section 3-55.

20 (28) Tangible personal property sold to a
21 public-facilities corporation, as described in Section
22 11-65-10 of the Illinois Municipal Code, for purposes of
23 constructing or furnishing a municipal convention hall, but
24 only if the legal title to the municipal convention hall is
25 transferred to the municipality without any further
26 consideration by or on behalf of the municipality at the time

1 of the completion of the municipal convention hall or upon the
2 retirement or redemption of any bonds or other debt instruments
3 issued by the public-facilities corporation in connection with
4 the development of the municipal convention hall. This
5 exemption includes existing public-facilities corporations as
6 provided in Section 11-65-25 of the Illinois Municipal Code.
7 This paragraph is exempt from the provisions of Section 3-55.

8 (29) Beginning January 1, 2010, materials, parts,
9 equipment, components, and furnishings incorporated into or
10 upon an aircraft as part of the modification, refurbishment,
11 completion, replacement, repair, or maintenance of the
12 aircraft. This exemption includes consumable supplies used in
13 the modification, refurbishment, completion, replacement,
14 repair, and maintenance of aircraft, but excludes any
15 materials, parts, equipment, components, and consumable
16 supplies used in the modification, replacement, repair, and
17 maintenance of aircraft engines or power plants, whether such
18 engines or power plants are installed or uninstalled upon any
19 such aircraft. "Consumable supplies" include, but are not
20 limited to, adhesive, tape, sandpaper, general purpose
21 lubricants, cleaning solution, latex gloves, and protective
22 films. This exemption applies only to the transfer of
23 qualifying tangible personal property incident to the
24 modification, refurbishment, completion, replacement, repair,
25 or maintenance of an aircraft by persons who (i) hold an Air
26 Agency Certificate and are empowered to operate an approved

1 repair station by the Federal Aviation Administration, (ii)
2 have a Class IV Rating, and (iii) conduct operations in
3 accordance with Part 145 of the Federal Aviation Regulations.
4 The exemption does not include aircraft operated by a
5 commercial air carrier providing scheduled passenger air
6 service pursuant to authority issued under Part 121 or Part 129
7 of the Federal Aviation Regulations. The changes made to this
8 paragraph (29) by Public Act 98-534 are declarative of existing
9 law.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227,
11 eff. 1-1-12; 97-431, eff. 8-16-11; 97-636, eff. 6-1-12; 97-767,
12 eff. 7-9-12; 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;
13 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-756, eff.
14 7-16-14.)

15 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

16 Sec. 3-10. Rate of tax. Unless otherwise provided in this
17 Section, the tax imposed by this Act is at the rate of 6.25% of
18 the "selling price", as defined in Section 2 of the Service Use
19 Tax Act, of the tangible personal property. For the purpose of
20 computing this tax, in no event shall the "selling price" be
21 less than the cost price to the serviceman of the tangible
22 personal property transferred. The selling price of each item
23 of tangible personal property transferred as an incident of a
24 sale of service may be shown as a distinct and separate item on
25 the serviceman's billing to the service customer. If the

1 selling price is not so shown, the selling price of the
2 tangible personal property is deemed to be 50% of the
3 serviceman's entire billing to the service customer. When,
4 however, a serviceman contracts to design, develop, and produce
5 special order machinery or equipment, the tax imposed by this
6 Act shall be based on the serviceman's cost price of the
7 tangible personal property transferred incident to the
8 completion of the contract.

9 Beginning on July 1, 2000 and through December 31, 2000,
10 with respect to motor fuel, as defined in Section 1.1 of the
11 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
12 the Use Tax Act, the tax is imposed at the rate of 1.25%.

13 With respect to gasohol, as defined in the Use Tax Act, the
14 tax imposed by this Act shall apply to (i) 70% of the cost
15 price of property transferred as an incident to the sale of
16 service on or after January 1, 1990, and before July 1, 2003,
17 (ii) 80% of the selling price of property transferred as an
18 incident to the sale of service on or after July 1, 2003 and on
19 or before December 31, 2018, and (iii) 100% of the cost price
20 thereafter. If, at any time, however, the tax under this Act on
21 sales of gasohol, as defined in the Use Tax Act, is imposed at
22 the rate of 1.25%, then the tax imposed by this Act applies to
23 100% of the proceeds of sales of gasohol made during that time.

24 With respect to majority blended ethanol fuel, as defined
25 in the Use Tax Act, the tax imposed by this Act does not apply
26 to the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 and on or before
2 December 31, 2018 but applies to 100% of the selling price
3 thereafter.

4 With respect to biodiesel blends, as defined in the Use Tax
5 Act, with no less than 1% and no more than 10% biodiesel, the
6 tax imposed by this Act applies to (i) 80% of the selling price
7 of property transferred as an incident to the sale of service
8 on or after July 1, 2003 and on or before December 31, 2018 and
9 (ii) 100% of the proceeds of the selling price thereafter. If,
10 at any time, however, the tax under this Act on sales of
11 biodiesel blends, as defined in the Use Tax Act, with no less
12 than 1% and no more than 10% biodiesel is imposed at the rate
13 of 1.25%, then the tax imposed by this Act applies to 100% of
14 the proceeds of sales of biodiesel blends with no less than 1%
15 and no more than 10% biodiesel made during that time.

16 With respect to 100% biodiesel, as defined in the Use Tax
17 Act, and biodiesel blends, as defined in the Use Tax Act, with
18 more than 10% but no more than 99% biodiesel material, the tax
19 imposed by this Act does not apply to the proceeds of the
20 selling price of property transferred as an incident to the
21 sale of service on or after July 1, 2003 and on or before
22 December 31, 2018 but applies to 100% of the selling price
23 thereafter.

24 At the election of any registered serviceman made for each
25 fiscal year, sales of service in which the aggregate annual
26 cost price of tangible personal property transferred as an

1 incident to the sales of service is less than 35%, or 75% in
2 the case of servicemen transferring prescription drugs or
3 servicemen engaged in graphic arts production, of the aggregate
4 annual total gross receipts from all sales of service, the tax
5 imposed by this Act shall be based on the serviceman's cost
6 price of the tangible personal property transferred incident to
7 the sale of those services.

8 The tax shall be imposed at the rate of 1% on food prepared
9 for immediate consumption and transferred incident to a sale of
10 service subject to this Act or the Service Occupation Tax Act
11 by an entity licensed under the Hospital Licensing Act, the
12 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD
13 Act, the Specialized Mental Health Rehabilitation Act of 2013,
14 or the Child Care Act of 1969. The tax shall also be imposed at
15 the rate of 1% on food for human consumption that is to be
16 consumed off the premises where it is sold (other than
17 alcoholic beverages, soft drinks, and food that has been
18 prepared for immediate consumption and is not otherwise
19 included in this paragraph) and prescription and
20 nonprescription medicines, drugs, medical appliances,
21 modifications to a motor vehicle for the purpose of rendering
22 it usable by a disabled person, and insulin, urine testing
23 materials, syringes, and needles used by diabetics, for human
24 use. For the purposes of this Section, until September 1, 2009:
25 the term "soft drinks" means any complete, finished,
26 ready-to-use, non-alcoholic drink, whether carbonated or not,

1 including but not limited to soda water, cola, fruit juice,
2 vegetable juice, carbonated water, and all other preparations
3 commonly known as soft drinks of whatever kind or description
4 that are contained in any closed or sealed can, carton, or
5 container, regardless of size; but "soft drinks" does not
6 include coffee, tea, non-carbonated water, infant formula,
7 milk or milk products as defined in the Grade A Pasteurized
8 Milk and Milk Products Act, or drinks containing 50% or more
9 natural fruit or vegetable juice.

10 Notwithstanding any other provisions of this Act,
11 beginning September 1, 2009, "soft drinks" means non-alcoholic
12 beverages that contain natural or artificial sweeteners. "Soft
13 drinks" do not include beverages that contain milk or milk
14 products, soy, rice or similar milk substitutes, or greater
15 than 50% of vegetable or fruit juice by volume.

16 Until August 1, 2009, and notwithstanding any other
17 provisions of this Act, "food for human consumption that is to
18 be consumed off the premises where it is sold" includes all
19 food sold through a vending machine, except soft drinks and
20 food products that are dispensed hot from a vending machine,
21 regardless of the location of the vending machine. Beginning
22 August 1, 2009, and notwithstanding any other provisions of
23 this Act, "food for human consumption that is to be consumed
24 off the premises where it is sold" includes all food sold
25 through a vending machine, except soft drinks, candy, and food
26 products that are dispensed hot from a vending machine,

1 regardless of the location of the vending machine.

2 Notwithstanding any other provisions of this Act,
3 beginning September 1, 2009, "food for human consumption that
4 is to be consumed off the premises where it is sold" does not
5 include candy. For purposes of this Section, "candy" means a
6 preparation of sugar, honey, or other natural or artificial
7 sweeteners in combination with chocolate, fruits, nuts or other
8 ingredients or flavorings in the form of bars, drops, or
9 pieces. "Candy" does not include any preparation that contains
10 flour or requires refrigeration.

11 Notwithstanding any other provisions of this Act,
12 beginning September 1, 2009, "nonprescription medicines and
13 drugs" does not include grooming and hygiene products. For
14 purposes of this Section, "grooming and hygiene products"
15 includes, but is not limited to, soaps and cleaning solutions,
16 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
17 lotions and screens, unless those products are available by
18 prescription only, regardless of whether the products meet the
19 definition of "over-the-counter-drugs". For the purposes of
20 this paragraph, "over-the-counter-drug" means a drug for human
21 use that contains a label that identifies the product as a drug
22 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
23 label includes:

24 (A) A "Drug Facts" panel; or

25 (B) A statement of the "active ingredient(s)" with a
26 list of those ingredients contained in the compound,

1 substance or preparation.

2 Beginning on January 1, 2014 (the effective date of Public
3 Act 98-122), "prescription and nonprescription medicines and
4 drugs" includes medical cannabis purchased from a registered
5 dispensing organization under the Compassionate Use of Medical
6 Cannabis Pilot Program Act.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-636,
8 eff. 6-1-12; 98-104, eff. 7-22-13; 98-122, eff. 1-1-14; 98-756,
9 eff. 7-16-14.)

10 Section 60. The Retailers' Occupation Tax Act is amended by
11 changing Section 2-5 as follows:

12 (35 ILCS 120/2-5)

13 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
14 sale of the following tangible personal property are exempt
15 from the tax imposed by this Act:

16 (1) Farm chemicals.

17 (2) Farm machinery and equipment, both new and used,
18 including that manufactured on special order, certified by the
19 purchaser to be used primarily for production agriculture or
20 State or federal agricultural programs, including individual
21 replacement parts for the machinery and equipment, including
22 machinery and equipment purchased for lease, and including
23 implements of husbandry defined in Section 1-130 of the
24 Illinois Vehicle Code, farm machinery and agricultural

1 chemical and fertilizer spreaders, and nurse wagons required to
2 be registered under Section 3-809 of the Illinois Vehicle Code,
3 but excluding other motor vehicles required to be registered
4 under the Illinois Vehicle Code. Horticultural polyhouses or
5 hoop houses used for propagating, growing, or overwintering
6 plants shall be considered farm machinery and equipment under
7 this item (2). Agricultural chemical tender tanks and dry boxes
8 shall include units sold separately from a motor vehicle
9 required to be licensed and units sold mounted on a motor
10 vehicle required to be licensed, if the selling price of the
11 tender is separately stated.

12 Farm machinery and equipment shall include precision
13 farming equipment that is installed or purchased to be
14 installed on farm machinery and equipment including, but not
15 limited to, tractors, harvesters, sprayers, planters, seeders,
16 or spreaders. Precision farming equipment includes, but is not
17 limited to, soil testing sensors, computers, monitors,
18 software, global positioning and mapping systems, and other
19 such equipment.

20 Farm machinery and equipment also includes computers,
21 sensors, software, and related equipment used primarily in the
22 computer-assisted operation of production agriculture
23 facilities, equipment, and activities such as, but not limited
24 to, the collection, monitoring, and correlation of animal and
25 crop data for the purpose of formulating animal diets and
26 agricultural chemicals. This item (2) is exempt from the

1 provisions of Section 2-70.

2 (3) Until July 1, 2003, distillation machinery and
3 equipment, sold as a unit or kit, assembled or installed by the
4 retailer, certified by the user to be used only for the
5 production of ethyl alcohol that will be used for consumption
6 as motor fuel or as a component of motor fuel for the personal
7 use of the user, and not subject to sale or resale.

8 (4) Until July 1, 2003 and beginning again September 1,
9 2004 through August 30, 2014, graphic arts machinery and
10 equipment, including repair and replacement parts, both new and
11 used, and including that manufactured on special order or
12 purchased for lease, certified by the purchaser to be used
13 primarily for graphic arts production. Equipment includes
14 chemicals or chemicals acting as catalysts but only if the
15 chemicals or chemicals acting as catalysts effect a direct and
16 immediate change upon a graphic arts product.

17 (5) A motor vehicle that is used for automobile renting, as
18 defined in the Automobile Renting Occupation and Use Tax Act.
19 This paragraph is exempt from the provisions of Section 2-70.

20 (6) Personal property sold by a teacher-sponsored student
21 organization affiliated with an elementary or secondary school
22 located in Illinois.

23 (7) Until July 1, 2003, proceeds of that portion of the
24 selling price of a passenger car the sale of which is subject
25 to the Replacement Vehicle Tax.

26 (8) Personal property sold to an Illinois county fair

1 association for use in conducting, operating, or promoting the
2 county fair.

3 (9) Personal property sold to a not-for-profit arts or
4 cultural organization that establishes, by proof required by
5 the Department by rule, that it has received an exemption under
6 Section 501(c)(3) of the Internal Revenue Code and that is
7 organized and operated primarily for the presentation or
8 support of arts or cultural programming, activities, or
9 services. These organizations include, but are not limited to,
10 music and dramatic arts organizations such as symphony
11 orchestras and theatrical groups, arts and cultural service
12 organizations, local arts councils, visual arts organizations,
13 and media arts organizations. On and after the effective date
14 of this amendatory Act of the 92nd General Assembly, however,
15 an entity otherwise eligible for this exemption shall not make
16 tax-free purchases unless it has an active identification
17 number issued by the Department.

18 (10) Personal property sold by a corporation, society,
19 association, foundation, institution, or organization, other
20 than a limited liability company, that is organized and
21 operated as a not-for-profit service enterprise for the benefit
22 of persons 65 years of age or older if the personal property
23 was not purchased by the enterprise for the purpose of resale
24 by the enterprise.

25 (11) Personal property sold to a governmental body, to a
26 corporation, society, association, foundation, or institution

1 organized and operated exclusively for charitable, religious,
2 or educational purposes, or to a not-for-profit corporation,
3 society, association, foundation, institution, or organization
4 that has no compensated officers or employees and that is
5 organized and operated primarily for the recreation of persons
6 55 years of age or older. A limited liability company may
7 qualify for the exemption under this paragraph only if the
8 limited liability company is organized and operated
9 exclusively for educational purposes. On and after July 1,
10 1987, however, no entity otherwise eligible for this exemption
11 shall make tax-free purchases unless it has an active
12 identification number issued by the Department.

13 (12) Tangible personal property sold to interstate
14 carriers for hire for use as rolling stock moving in interstate
15 commerce or to lessors under leases of one year or longer
16 executed or in effect at the time of purchase by interstate
17 carriers for hire for use as rolling stock moving in interstate
18 commerce and equipment operated by a telecommunications
19 provider, licensed as a common carrier by the Federal
20 Communications Commission, which is permanently installed in
21 or affixed to aircraft moving in interstate commerce.

22 (12-5) On and after July 1, 2003 and through June 30, 2004,
23 motor vehicles of the second division with a gross vehicle
24 weight in excess of 8,000 pounds that are subject to the
25 commercial distribution fee imposed under Section 3-815.1 of
26 the Illinois Vehicle Code. Beginning on July 1, 2004 and

1 through June 30, 2005, the use in this State of motor vehicles
2 of the second division: (i) with a gross vehicle weight rating
3 in excess of 8,000 pounds; (ii) that are subject to the
4 commercial distribution fee imposed under Section 3-815.1 of
5 the Illinois Vehicle Code; and (iii) that are primarily used
6 for commercial purposes. Through June 30, 2005, this exemption
7 applies to repair and replacement parts added after the initial
8 purchase of such a motor vehicle if that motor vehicle is used
9 in a manner that would qualify for the rolling stock exemption
10 otherwise provided for in this Act. For purposes of this
11 paragraph, "used for commercial purposes" means the
12 transportation of persons or property in furtherance of any
13 commercial or industrial enterprise whether for-hire or not.

14 (13) Proceeds from sales to owners, lessors, or shippers of
15 tangible personal property that is utilized by interstate
16 carriers for hire for use as rolling stock moving in interstate
17 commerce and equipment operated by a telecommunications
18 provider, licensed as a common carrier by the Federal
19 Communications Commission, which is permanently installed in
20 or affixed to aircraft moving in interstate commerce.

21 (14) Machinery and equipment that will be used by the
22 purchaser, or a lessee of the purchaser, primarily in the
23 process of manufacturing or assembling tangible personal
24 property for wholesale or retail sale or lease, whether the
25 sale or lease is made directly by the manufacturer or by some
26 other person, whether the materials used in the process are

1 owned by the manufacturer or some other person, or whether the
2 sale or lease is made apart from or as an incident to the
3 seller's engaging in the service occupation of producing
4 machines, tools, dies, jigs, patterns, gauges, or other similar
5 items of no commercial value on special order for a particular
6 purchaser. The exemption provided by this paragraph (14) does
7 not include machinery and equipment used in (i) the generation
8 of electricity for wholesale or retail sale; (ii) the
9 generation or treatment of natural or artificial gas for
10 wholesale or retail sale that is delivered to customers through
11 pipes, pipelines, or mains; or (iii) the treatment of water for
12 wholesale or retail sale that is delivered to customers through
13 pipes, pipelines, or mains. The provisions of Public Act 98-583
14 are declaratory of existing law as to the meaning and scope of
15 this exemption.

16 (15) Proceeds of mandatory service charges separately
17 stated on customers' bills for purchase and consumption of food
18 and beverages, to the extent that the proceeds of the service
19 charge are in fact turned over as tips or as a substitute for
20 tips to the employees who participate directly in preparing,
21 serving, hosting or cleaning up the food or beverage function
22 with respect to which the service charge is imposed.

23 (16) Petroleum products sold to a purchaser if the seller
24 is prohibited by federal law from charging tax to the
25 purchaser.

26 (17) Tangible personal property sold to a common carrier by

1 rail or motor that receives the physical possession of the
2 property in Illinois and that transports the property, or
3 shares with another common carrier in the transportation of the
4 property, out of Illinois on a standard uniform bill of lading
5 showing the seller of the property as the shipper or consignor
6 of the property to a destination outside Illinois, for use
7 outside Illinois.

8 (18) Legal tender, currency, medallions, or gold or silver
9 coinage issued by the State of Illinois, the government of the
10 United States of America, or the government of any foreign
11 country, and bullion.

12 (19) Until July 1 2003, oil field exploration, drilling,
13 and production equipment, including (i) rigs and parts of rigs,
14 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
15 tubular goods, including casing and drill strings, (iii) pumps
16 and pump-jack units, (iv) storage tanks and flow lines, (v) any
17 individual replacement part for oil field exploration,
18 drilling, and production equipment, and (vi) machinery and
19 equipment purchased for lease; but excluding motor vehicles
20 required to be registered under the Illinois Vehicle Code.

21 (20) Photoprocessing machinery and equipment, including
22 repair and replacement parts, both new and used, including that
23 manufactured on special order, certified by the purchaser to be
24 used primarily for photoprocessing, and including
25 photoprocessing machinery and equipment purchased for lease.

26 (21) Coal and aggregate exploration, mining, off-highway

1 hauling, processing, maintenance, and reclamation equipment,
2 including replacement parts and equipment, and including
3 equipment purchased for lease, but excluding motor vehicles
4 required to be registered under the Illinois Vehicle Code. The
5 changes made to this Section by Public Act 97-767 apply on and
6 after July 1, 2003, but no claim for credit or refund is
7 allowed on or after August 16, 2013 (the effective date of
8 Public Act 98-456) for such taxes paid during the period
9 beginning July 1, 2003 and ending on August 16, 2013 (the
10 effective date of Public Act 98-456).

11 (22) Until June 30, 2013, fuel and petroleum products sold
12 to or used by an air carrier, certified by the carrier to be
13 used for consumption, shipment, or storage in the conduct of
14 its business as an air common carrier, for a flight destined
15 for or returning from a location or locations outside the
16 United States without regard to previous or subsequent domestic
17 stopovers.

18 Beginning July 1, 2013, fuel and petroleum products sold to
19 or used by an air carrier, certified by the carrier to be used
20 for consumption, shipment, or storage in the conduct of its
21 business as an air common carrier, for a flight that (i) is
22 engaged in foreign trade or is engaged in trade between the
23 United States and any of its possessions and (ii) transports at
24 least one individual or package for hire from the city of
25 origination to the city of final destination on the same
26 aircraft, without regard to a change in the flight number of

1 that aircraft.

2 (23) A transaction in which the purchase order is received
3 by a florist who is located outside Illinois, but who has a
4 florist located in Illinois deliver the property to the
5 purchaser or the purchaser's donee in Illinois.

6 (24) Fuel consumed or used in the operation of ships,
7 barges, or vessels that are used primarily in or for the
8 transportation of property or the conveyance of persons for
9 hire on rivers bordering on this State if the fuel is delivered
10 by the seller to the purchaser's barge, ship, or vessel while
11 it is afloat upon that bordering river.

12 (25) Except as provided in item (25-5) of this Section, a
13 motor vehicle sold in this State to a nonresident even though
14 the motor vehicle is delivered to the nonresident in this
15 State, if the motor vehicle is not to be titled in this State,
16 and if a drive-away permit is issued to the motor vehicle as
17 provided in Section 3-603 of the Illinois Vehicle Code or if
18 the nonresident purchaser has vehicle registration plates to
19 transfer to the motor vehicle upon returning to his or her home
20 state. The issuance of the drive-away permit or having the
21 out-of-state registration plates to be transferred is prima
22 facie evidence that the motor vehicle will not be titled in
23 this State.

24 (25-5) The exemption under item (25) does not apply if the
25 state in which the motor vehicle will be titled does not allow
26 a reciprocal exemption for a motor vehicle sold and delivered

1 in that state to an Illinois resident but titled in Illinois.
2 The tax collected under this Act on the sale of a motor vehicle
3 in this State to a resident of another state that does not
4 allow a reciprocal exemption shall be imposed at a rate equal
5 to the state's rate of tax on taxable property in the state in
6 which the purchaser is a resident, except that the tax shall
7 not exceed the tax that would otherwise be imposed under this
8 Act. At the time of the sale, the purchaser shall execute a
9 statement, signed under penalty of perjury, of his or her
10 intent to title the vehicle in the state in which the purchaser
11 is a resident within 30 days after the sale and of the fact of
12 the payment to the State of Illinois of tax in an amount
13 equivalent to the state's rate of tax on taxable property in
14 his or her state of residence and shall submit the statement to
15 the appropriate tax collection agency in his or her state of
16 residence. In addition, the retailer must retain a signed copy
17 of the statement in his or her records. Nothing in this item
18 shall be construed to require the removal of the vehicle from
19 this state following the filing of an intent to title the
20 vehicle in the purchaser's state of residence if the purchaser
21 titles the vehicle in his or her state of residence within 30
22 days after the date of sale. The tax collected under this Act
23 in accordance with this item (25-5) shall be proportionately
24 distributed as if the tax were collected at the 6.25% general
25 rate imposed under this Act.

26 (25-7) Beginning on July 1, 2007, no tax is imposed under

1 this Act on the sale of an aircraft, as defined in Section 3 of
2 the Illinois Aeronautics Act, if all of the following
3 conditions are met:

4 (1) the aircraft leaves this State within 15 days after
5 the later of either the issuance of the final billing for
6 the sale of the aircraft, or the authorized approval for
7 return to service, completion of the maintenance record
8 entry, and completion of the test flight and ground test
9 for inspection, as required by 14 C.F.R. 91.407;

10 (2) the aircraft is not based or registered in this
11 State after the sale of the aircraft; and

12 (3) the seller retains in his or her books and records
13 and provides to the Department a signed and dated
14 certification from the purchaser, on a form prescribed by
15 the Department, certifying that the requirements of this
16 item (25-7) are met. The certificate must also include the
17 name and address of the purchaser, the address of the
18 location where the aircraft is to be titled or registered,
19 the address of the primary physical location of the
20 aircraft, and other information that the Department may
21 reasonably require.

22 For purposes of this item (25-7):

23 "Based in this State" means hangared, stored, or otherwise
24 used, excluding post-sale customizations as defined in this
25 Section, for 10 or more days in each 12-month period
26 immediately following the date of the sale of the aircraft.

1 "Registered in this State" means an aircraft registered
2 with the Department of Transportation, Aeronautics Division,
3 or titled or registered with the Federal Aviation
4 Administration to an address located in this State.

5 This paragraph (25-7) is exempt from the provisions of
6 Section 2-70.

7 (26) Semen used for artificial insemination of livestock
8 for direct agricultural production.

9 (27) Horses, or interests in horses, registered with and
10 meeting the requirements of any of the Arabian Horse Club
11 Registry of America, Appaloosa Horse Club, American Quarter
12 Horse Association, United States Trotting Association, or
13 Jockey Club, as appropriate, used for purposes of breeding or
14 racing for prizes. This item (27) is exempt from the provisions
15 of Section 2-70, and the exemption provided for under this item
16 (27) applies for all periods beginning May 30, 1995, but no
17 claim for credit or refund is allowed on or after January 1,
18 2008 (the effective date of Public Act 95-88) for such taxes
19 paid during the period beginning May 30, 2000 and ending on
20 January 1, 2008 (the effective date of Public Act 95-88).

21 (28) Computers and communications equipment utilized for
22 any hospital purpose and equipment used in the diagnosis,
23 analysis, or treatment of hospital patients sold to a lessor
24 who leases the equipment, under a lease of one year or longer
25 executed or in effect at the time of the purchase, to a
26 hospital that has been issued an active tax exemption

1 identification number by the Department under Section 1g of
2 this Act.

3 (29) Personal property sold to a lessor who leases the
4 property, under a lease of one year or longer executed or in
5 effect at the time of the purchase, to a governmental body that
6 has been issued an active tax exemption identification number
7 by the Department under Section 1g of this Act.

8 (30) Beginning with taxable years ending on or after
9 December 31, 1995 and ending with taxable years ending on or
10 before December 31, 2004, personal property that is donated for
11 disaster relief to be used in a State or federally declared
12 disaster area in Illinois or bordering Illinois by a
13 manufacturer or retailer that is registered in this State to a
14 corporation, society, association, foundation, or institution
15 that has been issued a sales tax exemption identification
16 number by the Department that assists victims of the disaster
17 who reside within the declared disaster area.

18 (31) Beginning with taxable years ending on or after
19 December 31, 1995 and ending with taxable years ending on or
20 before December 31, 2004, personal property that is used in the
21 performance of infrastructure repairs in this State, including
22 but not limited to municipal roads and streets, access roads,
23 bridges, sidewalks, waste disposal systems, water and sewer
24 line extensions, water distribution and purification
25 facilities, storm water drainage and retention facilities, and
26 sewage treatment facilities, resulting from a State or

1 federally declared disaster in Illinois or bordering Illinois
2 when such repairs are initiated on facilities located in the
3 declared disaster area within 6 months after the disaster.

4 (32) Beginning July 1, 1999, game or game birds sold at a
5 "game breeding and hunting preserve area" as that term is used
6 in the Wildlife Code. This paragraph is exempt from the
7 provisions of Section 2-70.

8 (33) A motor vehicle, as that term is defined in Section
9 1-146 of the Illinois Vehicle Code, that is donated to a
10 corporation, limited liability company, society, association,
11 foundation, or institution that is determined by the Department
12 to be organized and operated exclusively for educational
13 purposes. For purposes of this exemption, "a corporation,
14 limited liability company, society, association, foundation,
15 or institution organized and operated exclusively for
16 educational purposes" means all tax-supported public schools,
17 private schools that offer systematic instruction in useful
18 branches of learning by methods common to public schools and
19 that compare favorably in their scope and intensity with the
20 course of study presented in tax-supported schools, and
21 vocational or technical schools or institutes organized and
22 operated exclusively to provide a course of study of not less
23 than 6 weeks duration and designed to prepare individuals to
24 follow a trade or to pursue a manual, technical, mechanical,
25 industrial, business, or commercial occupation.

26 (34) Beginning January 1, 2000, personal property,

1 including food, purchased through fundraising events for the
2 benefit of a public or private elementary or secondary school,
3 a group of those schools, or one or more school districts if
4 the events are sponsored by an entity recognized by the school
5 district that consists primarily of volunteers and includes
6 parents and teachers of the school children. This paragraph
7 does not apply to fundraising events (i) for the benefit of
8 private home instruction or (ii) for which the fundraising
9 entity purchases the personal property sold at the events from
10 another individual or entity that sold the property for the
11 purpose of resale by the fundraising entity and that profits
12 from the sale to the fundraising entity. This paragraph is
13 exempt from the provisions of Section 2-70.

14 (35) Beginning January 1, 2000 and through December 31,
15 2001, new or used automatic vending machines that prepare and
16 serve hot food and beverages, including coffee, soup, and other
17 items, and replacement parts for these machines. Beginning
18 January 1, 2002 and through June 30, 2003, machines and parts
19 for machines used in commercial, coin-operated amusement and
20 vending business if a use or occupation tax is paid on the
21 gross receipts derived from the use of the commercial,
22 coin-operated amusement and vending machines. This paragraph
23 is exempt from the provisions of Section 2-70.

24 (35-5) Beginning August 23, 2001 and through June 30, 2016,
25 food for human consumption that is to be consumed off the
26 premises where it is sold (other than alcoholic beverages, soft

1 drinks, and food that has been prepared for immediate
2 consumption) and prescription and nonprescription medicines,
3 drugs, medical appliances, and insulin, urine testing
4 materials, syringes, and needles used by diabetics, for human
5 use, when purchased for use by a person receiving medical
6 assistance under Article V of the Illinois Public Aid Code who
7 resides in a licensed long-term care facility, as defined in
8 the Nursing Home Care Act, or a licensed facility as defined in
9 the ID/DD Community Care Act, the MC/DD Act, or the Specialized
10 Mental Health Rehabilitation Act of 2013.

11 (36) Beginning August 2, 2001, computers and
12 communications equipment utilized for any hospital purpose and
13 equipment used in the diagnosis, analysis, or treatment of
14 hospital patients sold to a lessor who leases the equipment,
15 under a lease of one year or longer executed or in effect at
16 the time of the purchase, to a hospital that has been issued an
17 active tax exemption identification number by the Department
18 under Section 1g of this Act. This paragraph is exempt from the
19 provisions of Section 2-70.

20 (37) Beginning August 2, 2001, personal property sold to a
21 lessor who leases the property, under a lease of one year or
22 longer executed or in effect at the time of the purchase, to a
23 governmental body that has been issued an active tax exemption
24 identification number by the Department under Section 1g of
25 this Act. This paragraph is exempt from the provisions of
26 Section 2-70.

1 (38) Beginning on January 1, 2002 and through June 30,
2 2016, tangible personal property purchased from an Illinois
3 retailer by a taxpayer engaged in centralized purchasing
4 activities in Illinois who will, upon receipt of the property
5 in Illinois, temporarily store the property in Illinois (i) for
6 the purpose of subsequently transporting it outside this State
7 for use or consumption thereafter solely outside this State or
8 (ii) for the purpose of being processed, fabricated, or
9 manufactured into, attached to, or incorporated into other
10 tangible personal property to be transported outside this State
11 and thereafter used or consumed solely outside this State. The
12 Director of Revenue shall, pursuant to rules adopted in
13 accordance with the Illinois Administrative Procedure Act,
14 issue a permit to any taxpayer in good standing with the
15 Department who is eligible for the exemption under this
16 paragraph (38). The permit issued under this paragraph (38)
17 shall authorize the holder, to the extent and in the manner
18 specified in the rules adopted under this Act, to purchase
19 tangible personal property from a retailer exempt from the
20 taxes imposed by this Act. Taxpayers shall maintain all
21 necessary books and records to substantiate the use and
22 consumption of all such tangible personal property outside of
23 the State of Illinois.

24 (39) Beginning January 1, 2008, tangible personal property
25 used in the construction or maintenance of a community water
26 supply, as defined under Section 3.145 of the Environmental

1 Protection Act, that is operated by a not-for-profit
2 corporation that holds a valid water supply permit issued under
3 Title IV of the Environmental Protection Act. This paragraph is
4 exempt from the provisions of Section 2-70.

5 (40) Beginning January 1, 2010, materials, parts,
6 equipment, components, and furnishings incorporated into or
7 upon an aircraft as part of the modification, refurbishment,
8 completion, replacement, repair, or maintenance of the
9 aircraft. This exemption includes consumable supplies used in
10 the modification, refurbishment, completion, replacement,
11 repair, and maintenance of aircraft, but excludes any
12 materials, parts, equipment, components, and consumable
13 supplies used in the modification, replacement, repair, and
14 maintenance of aircraft engines or power plants, whether such
15 engines or power plants are installed or uninstalled upon any
16 such aircraft. "Consumable supplies" include, but are not
17 limited to, adhesive, tape, sandpaper, general purpose
18 lubricants, cleaning solution, latex gloves, and protective
19 films. This exemption applies only to the sale of qualifying
20 tangible personal property to persons who modify, refurbish,
21 complete, replace, or maintain an aircraft and who (i) hold an
22 Air Agency Certificate and are empowered to operate an approved
23 repair station by the Federal Aviation Administration, (ii)
24 have a Class IV Rating, and (iii) conduct operations in
25 accordance with Part 145 of the Federal Aviation Regulations.
26 The exemption does not include aircraft operated by a

1 commercial air carrier providing scheduled passenger air
2 service pursuant to authority issued under Part 121 or Part 129
3 of the Federal Aviation Regulations. The changes made to this
4 paragraph (40) by Public Act 98-534 are declarative of existing
5 law.

6 (41) Tangible personal property sold to a
7 public-facilities corporation, as described in Section
8 11-65-10 of the Illinois Municipal Code, for purposes of
9 constructing or furnishing a municipal convention hall, but
10 only if the legal title to the municipal convention hall is
11 transferred to the municipality without any further
12 consideration by or on behalf of the municipality at the time
13 of the completion of the municipal convention hall or upon the
14 retirement or redemption of any bonds or other debt instruments
15 issued by the public-facilities corporation in connection with
16 the development of the municipal convention hall. This
17 exemption includes existing public-facilities corporations as
18 provided in Section 11-65-25 of the Illinois Municipal Code.
19 This paragraph is exempt from the provisions of Section 2-70.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227,
21 eff. 1-1-12; 97-431, eff. 8-16-11; 97-636, eff. 6-1-12; 97-767,
22 eff. 7-9-12; 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;
23 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-574, eff.
24 1-1-14; 98-583, eff. 1-1-14; 98-756, eff. 7-16-14.)

25 Section 65. The Property Tax Code is amended by changing

1 Sections 15-168, 15-170, and 15-172 as follows:

2 (35 ILCS 200/15-168)

3 Sec. 15-168. Disabled persons' homestead exemption.

4 (a) Beginning with taxable year 2007, an annual homestead
5 exemption is granted to disabled persons in the amount of
6 \$2,000, except as provided in subsection (c), to be deducted
7 from the property's value as equalized or assessed by the
8 Department of Revenue. The disabled person shall receive the
9 homestead exemption upon meeting the following requirements:

10 (1) The property must be occupied as the primary
11 residence by the disabled person.

12 (2) The disabled person must be liable for paying the
13 real estate taxes on the property.

14 (3) The disabled person must be an owner of record of
15 the property or have a legal or equitable interest in the
16 property as evidenced by a written instrument. In the case
17 of a leasehold interest in property, the lease must be for
18 a single family residence.

19 A person who is disabled during the taxable year is
20 eligible to apply for this homestead exemption during that
21 taxable year. Application must be made during the application
22 period in effect for the county of residence. If a homestead
23 exemption has been granted under this Section and the person
24 awarded the exemption subsequently becomes a resident of a
25 facility licensed under the Nursing Home Care Act, the

1 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
2 ID/DD Community Care Act, or the MC/DD Act, then the exemption
3 shall continue (i) so long as the residence continues to be
4 occupied by the qualifying person's spouse or (ii) if the
5 residence remains unoccupied but is still owned by the person
6 qualified for the homestead exemption.

7 (b) For the purposes of this Section, "disabled person"
8 means a person unable to engage in any substantial gainful
9 activity by reason of a medically determinable physical or
10 mental impairment which can be expected to result in death or
11 has lasted or can be expected to last for a continuous period
12 of not less than 12 months. Disabled persons filing claims
13 under this Act shall submit proof of disability in such form
14 and manner as the Department shall by rule and regulation
15 prescribe. Proof that a claimant is eligible to receive
16 disability benefits under the Federal Social Security Act shall
17 constitute proof of disability for purposes of this Act.
18 Issuance of an Illinois Person with a Disability Identification
19 Card stating that the claimant is under a Class 2 disability,
20 as defined in Section 4A of the Illinois Identification Card
21 Act, shall constitute proof that the person named thereon is a
22 disabled person for purposes of this Act. A disabled person not
23 covered under the Federal Social Security Act and not
24 presenting an Illinois Person with a Disability Identification
25 Card stating that the claimant is under a Class 2 disability
26 shall be examined by a physician designated by the Department,

1 and his status as a disabled person determined using the same
2 standards as used by the Social Security Administration. The
3 costs of any required examination shall be borne by the
4 claimant.

5 (c) For land improved with (i) an apartment building owned
6 and operated as a cooperative or (ii) a life care facility as
7 defined under Section 2 of the Life Care Facilities Act that is
8 considered to be a cooperative, the maximum reduction from the
9 value of the property, as equalized or assessed by the
10 Department, shall be multiplied by the number of apartments or
11 units occupied by a disabled person. The disabled person shall
12 receive the homestead exemption upon meeting the following
13 requirements:

14 (1) The property must be occupied as the primary
15 residence by the disabled person.

16 (2) The disabled person must be liable by contract with
17 the owner or owners of record for paying the apportioned
18 property taxes on the property of the cooperative or life
19 care facility. In the case of a life care facility, the
20 disabled person must be liable for paying the apportioned
21 property taxes under a life care contract as defined in
22 Section 2 of the Life Care Facilities Act.

23 (3) The disabled person must be an owner of record of a
24 legal or equitable interest in the cooperative apartment
25 building. A leasehold interest does not meet this
26 requirement.

1 If a homestead exemption is granted under this subsection, the
2 cooperative association or management firm shall credit the
3 savings resulting from the exemption to the apportioned tax
4 liability of the qualifying disabled person. The chief county
5 assessment officer may request reasonable proof that the
6 association or firm has properly credited the exemption. A
7 person who willfully refuses to credit an exemption to the
8 qualified disabled person is guilty of a Class B misdemeanor.

9 (d) The chief county assessment officer shall determine the
10 eligibility of property to receive the homestead exemption
11 according to guidelines established by the Department. After a
12 person has received an exemption under this Section, an annual
13 verification of eligibility for the exemption shall be mailed
14 to the taxpayer.

15 In counties with fewer than 3,000,000 inhabitants, the
16 chief county assessment officer shall provide to each person
17 granted a homestead exemption under this Section a form to
18 designate any other person to receive a duplicate of any notice
19 of delinquency in the payment of taxes assessed and levied
20 under this Code on the person's qualifying property. The
21 duplicate notice shall be in addition to the notice required to
22 be provided to the person receiving the exemption and shall be
23 given in the manner required by this Code. The person filing
24 the request for the duplicate notice shall pay an
25 administrative fee of \$5 to the chief county assessment
26 officer. The assessment officer shall then file the executed

1 designation with the county collector, who shall issue the
2 duplicate notices as indicated by the designation. A
3 designation may be rescinded by the disabled person in the
4 manner required by the chief county assessment officer.

5 (e) A taxpayer who claims an exemption under Section 15-165
6 or 15-169 may not claim an exemption under this Section.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 97-1064, eff. 1-1-13; 98-104, eff. 7-22-13.)

9 (35 ILCS 200/15-170)

10 Sec. 15-170. Senior Citizens Homestead Exemption. An
11 annual homestead exemption limited, except as described here
12 with relation to cooperatives or life care facilities, to a
13 maximum reduction set forth below from the property's value, as
14 equalized or assessed by the Department, is granted for
15 property that is occupied as a residence by a person 65 years
16 of age or older who is liable for paying real estate taxes on
17 the property and is an owner of record of the property or has a
18 legal or equitable interest therein as evidenced by a written
19 instrument, except for a leasehold interest, other than a
20 leasehold interest of land on which a single family residence
21 is located, which is occupied as a residence by a person 65
22 years or older who has an ownership interest therein, legal,
23 equitable or as a lessee, and on which he or she is liable for
24 the payment of property taxes. Before taxable year 2004, the
25 maximum reduction shall be \$2,500 in counties with 3,000,000 or

1 more inhabitants and \$2,000 in all other counties. For taxable
2 years 2004 through 2005, the maximum reduction shall be \$3,000
3 in all counties. For taxable years 2006 and 2007, the maximum
4 reduction shall be \$3,500. For taxable years 2008 through 2011,
5 the maximum reduction is \$4,000 in all counties. For taxable
6 year 2012, the maximum reduction is \$5,000 in counties with
7 3,000,000 or more inhabitants and \$4,000 in all other counties.
8 For taxable years 2013 and thereafter, the maximum reduction is
9 \$5,000 in all counties.

10 For land improved with an apartment building owned and
11 operated as a cooperative, the maximum reduction from the value
12 of the property, as equalized by the Department, shall be
13 multiplied by the number of apartments or units occupied by a
14 person 65 years of age or older who is liable, by contract with
15 the owner or owners of record, for paying property taxes on the
16 property and is an owner of record of a legal or equitable
17 interest in the cooperative apartment building, other than a
18 leasehold interest. For land improved with a life care
19 facility, the maximum reduction from the value of the property,
20 as equalized by the Department, shall be multiplied by the
21 number of apartments or units occupied by persons 65 years of
22 age or older, irrespective of any legal, equitable, or
23 leasehold interest in the facility, who are liable, under a
24 contract with the owner or owners of record of the facility,
25 for paying property taxes on the property. In a cooperative or
26 a life care facility where a homestead exemption has been

1 granted, the cooperative association or the management firm of
2 the cooperative or facility shall credit the savings resulting
3 from that exemption only to the apportioned tax liability of
4 the owner or resident who qualified for the exemption. Any
5 person who willfully refuses to so credit the savings shall be
6 guilty of a Class B misdemeanor. Under this Section and
7 Sections 15-175, 15-176, and 15-177, "life care facility" means
8 a facility, as defined in Section 2 of the Life Care Facilities
9 Act, with which the applicant for the homestead exemption has a
10 life care contract as defined in that Act.

11 When a homestead exemption has been granted under this
12 Section and the person qualifying subsequently becomes a
13 resident of a facility licensed under the Assisted Living and
14 Shared Housing Act, the Nursing Home Care Act, the Specialized
15 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
16 Community Care Act, or the MC/DD Act, the exemption shall
17 continue so long as the residence continues to be occupied by
18 the qualifying person's spouse if the spouse is 65 years of age
19 or older, or if the residence remains unoccupied but is still
20 owned by the person qualified for the homestead exemption.

21 A person who will be 65 years of age during the current
22 assessment year shall be eligible to apply for the homestead
23 exemption during that assessment year. Application shall be
24 made during the application period in effect for the county of
25 his residence.

26 Beginning with assessment year 2003, for taxes payable in

1 2004, property that is first occupied as a residence after
2 January 1 of any assessment year by a person who is eligible
3 for the senior citizens homestead exemption under this Section
4 must be granted a pro-rata exemption for the assessment year.
5 The amount of the pro-rata exemption is the exemption allowed
6 in the county under this Section divided by 365 and multiplied
7 by the number of days during the assessment year the property
8 is occupied as a residence by a person eligible for the
9 exemption under this Section. The chief county assessment
10 officer must adopt reasonable procedures to establish
11 eligibility for this pro-rata exemption.

12 The assessor or chief county assessment officer may
13 determine the eligibility of a life care facility to receive
14 the benefits provided by this Section, by affidavit,
15 application, visual inspection, questionnaire or other
16 reasonable methods in order to insure that the tax savings
17 resulting from the exemption are credited by the management
18 firm to the apportioned tax liability of each qualifying
19 resident. The assessor may request reasonable proof that the
20 management firm has so credited the exemption.

21 The chief county assessment officer of each county with
22 less than 3,000,000 inhabitants shall provide to each person
23 allowed a homestead exemption under this Section a form to
24 designate any other person to receive a duplicate of any notice
25 of delinquency in the payment of taxes assessed and levied
26 under this Code on the property of the person receiving the

1 exemption. The duplicate notice shall be in addition to the
2 notice required to be provided to the person receiving the
3 exemption, and shall be given in the manner required by this
4 Code. The person filing the request for the duplicate notice
5 shall pay a fee of \$5 to cover administrative costs to the
6 supervisor of assessments, who shall then file the executed
7 designation with the county collector. Notwithstanding any
8 other provision of this Code to the contrary, the filing of
9 such an executed designation requires the county collector to
10 provide duplicate notices as indicated by the designation. A
11 designation may be rescinded by the person who executed such
12 designation at any time, in the manner and form required by the
13 chief county assessment officer.

14 The assessor or chief county assessment officer may
15 determine the eligibility of residential property to receive
16 the homestead exemption provided by this Section by
17 application, visual inspection, questionnaire or other
18 reasonable methods. The determination shall be made in
19 accordance with guidelines established by the Department.

20 In counties with 3,000,000 or more inhabitants, beginning
21 in taxable year 2010, each taxpayer who has been granted an
22 exemption under this Section must reapply on an annual basis.
23 The chief county assessment officer shall mail the application
24 to the taxpayer. In counties with less than 3,000,000
25 inhabitants, the county board may by resolution provide that if
26 a person has been granted a homestead exemption under this

1 Section, the person qualifying need not reapply for the
2 exemption.

3 In counties with less than 3,000,000 inhabitants, if the
4 assessor or chief county assessment officer requires annual
5 application for verification of eligibility for an exemption
6 once granted under this Section, the application shall be
7 mailed to the taxpayer.

8 The assessor or chief county assessment officer shall
9 notify each person who qualifies for an exemption under this
10 Section that the person may also qualify for deferral of real
11 estate taxes under the Senior Citizens Real Estate Tax Deferral
12 Act. The notice shall set forth the qualifications needed for
13 deferral of real estate taxes, the address and telephone number
14 of county collector, and a statement that applications for
15 deferral of real estate taxes may be obtained from the county
16 collector.

17 Notwithstanding Sections 6 and 8 of the State Mandates Act,
18 no reimbursement by the State is required for the
19 implementation of any mandate created by this Section.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 98-7, eff. 4-23-13; 98-104, eff. 7-22-13; 98-756,
22 eff. 7-16-14.)

23 (35 ILCS 200/15-172)

24 Sec. 15-172. Senior Citizens Assessment Freeze Homestead
25 Exemption.

1 (a) This Section may be cited as the Senior Citizens
2 Assessment Freeze Homestead Exemption.

3 (b) As used in this Section:

4 "Applicant" means an individual who has filed an
5 application under this Section.

6 "Base amount" means the base year equalized assessed value
7 of the residence plus the first year's equalized assessed value
8 of any added improvements which increased the assessed value of
9 the residence after the base year.

10 "Base year" means the taxable year prior to the taxable
11 year for which the applicant first qualifies and applies for
12 the exemption provided that in the prior taxable year the
13 property was improved with a permanent structure that was
14 occupied as a residence by the applicant who was liable for
15 paying real property taxes on the property and who was either
16 (i) an owner of record of the property or had legal or
17 equitable interest in the property as evidenced by a written
18 instrument or (ii) had a legal or equitable interest as a
19 lessee in the parcel of property that was single family
20 residence. If in any subsequent taxable year for which the
21 applicant applies and qualifies for the exemption the equalized
22 assessed value of the residence is less than the equalized
23 assessed value in the existing base year (provided that such
24 equalized assessed value is not based on an assessed value that
25 results from a temporary irregularity in the property that
26 reduces the assessed value for one or more taxable years), then

1 that subsequent taxable year shall become the base year until a
2 new base year is established under the terms of this paragraph.
3 For taxable year 1999 only, the Chief County Assessment Officer
4 shall review (i) all taxable years for which the applicant
5 applied and qualified for the exemption and (ii) the existing
6 base year. The assessment officer shall select as the new base
7 year the year with the lowest equalized assessed value. An
8 equalized assessed value that is based on an assessed value
9 that results from a temporary irregularity in the property that
10 reduces the assessed value for one or more taxable years shall
11 not be considered the lowest equalized assessed value. The
12 selected year shall be the base year for taxable year 1999 and
13 thereafter until a new base year is established under the terms
14 of this paragraph.

15 "Chief County Assessment Officer" means the County
16 Assessor or Supervisor of Assessments of the county in which
17 the property is located.

18 "Equalized assessed value" means the assessed value as
19 equalized by the Illinois Department of Revenue.

20 "Household" means the applicant, the spouse of the
21 applicant, and all persons using the residence of the applicant
22 as their principal place of residence.

23 "Household income" means the combined income of the members
24 of a household for the calendar year preceding the taxable
25 year.

26 "Income" has the same meaning as provided in Section 3.07

1 of the Senior Citizens and Disabled Persons Property Tax Relief
2 Act, except that, beginning in assessment year 2001, "income"
3 does not include veteran's benefits.

4 "Internal Revenue Code of 1986" means the United States
5 Internal Revenue Code of 1986 or any successor law or laws
6 relating to federal income taxes in effect for the year
7 preceding the taxable year.

8 "Life care facility that qualifies as a cooperative" means
9 a facility as defined in Section 2 of the Life Care Facilities
10 Act.

11 "Maximum income limitation" means:

- 12 (1) \$35,000 prior to taxable year 1999;
- 13 (2) \$40,000 in taxable years 1999 through 2003;
- 14 (3) \$45,000 in taxable years 2004 through 2005;
- 15 (4) \$50,000 in taxable years 2006 and 2007; and
- 16 (5) \$55,000 in taxable year 2008 and thereafter.

17 "Residence" means the principal dwelling place and
18 appurtenant structures used for residential purposes in this
19 State occupied on January 1 of the taxable year by a household
20 and so much of the surrounding land, constituting the parcel
21 upon which the dwelling place is situated, as is used for
22 residential purposes. If the Chief County Assessment Officer
23 has established a specific legal description for a portion of
24 property constituting the residence, then that portion of
25 property shall be deemed the residence for the purposes of this
26 Section.

1 "Taxable year" means the calendar year during which ad
2 valorem property taxes payable in the next succeeding year are
3 levied.

4 (c) Beginning in taxable year 1994, a senior citizens
5 assessment freeze homestead exemption is granted for real
6 property that is improved with a permanent structure that is
7 occupied as a residence by an applicant who (i) is 65 years of
8 age or older during the taxable year, (ii) has a household
9 income that does not exceed the maximum income limitation,
10 (iii) is liable for paying real property taxes on the property,
11 and (iv) is an owner of record of the property or has a legal or
12 equitable interest in the property as evidenced by a written
13 instrument. This homestead exemption shall also apply to a
14 leasehold interest in a parcel of property improved with a
15 permanent structure that is a single family residence that is
16 occupied as a residence by a person who (i) is 65 years of age
17 or older during the taxable year, (ii) has a household income
18 that does not exceed the maximum income limitation, (iii) has a
19 legal or equitable ownership interest in the property as
20 lessee, and (iv) is liable for the payment of real property
21 taxes on that property.

22 In counties of 3,000,000 or more inhabitants, the amount of
23 the exemption for all taxable years is the equalized assessed
24 value of the residence in the taxable year for which
25 application is made minus the base amount. In all other
26 counties, the amount of the exemption is as follows: (i)

1 through taxable year 2005 and for taxable year 2007 and
2 thereafter, the amount of this exemption shall be the equalized
3 assessed value of the residence in the taxable year for which
4 application is made minus the base amount; and (ii) for taxable
5 year 2006, the amount of the exemption is as follows:

6 (1) For an applicant who has a household income of
7 \$45,000 or less, the amount of the exemption is the
8 equalized assessed value of the residence in the taxable
9 year for which application is made minus the base amount.

10 (2) For an applicant who has a household income
11 exceeding \$45,000 but not exceeding \$46,250, the amount of
12 the exemption is (i) the equalized assessed value of the
13 residence in the taxable year for which application is made
14 minus the base amount (ii) multiplied by 0.8.

15 (3) For an applicant who has a household income
16 exceeding \$46,250 but not exceeding \$47,500, the amount of
17 the exemption is (i) the equalized assessed value of the
18 residence in the taxable year for which application is made
19 minus the base amount (ii) multiplied by 0.6.

20 (4) For an applicant who has a household income
21 exceeding \$47,500 but not exceeding \$48,750, the amount of
22 the exemption is (i) the equalized assessed value of the
23 residence in the taxable year for which application is made
24 minus the base amount (ii) multiplied by 0.4.

25 (5) For an applicant who has a household income
26 exceeding \$48,750 but not exceeding \$50,000, the amount of

1 the exemption is (i) the equalized assessed value of the
2 residence in the taxable year for which application is made
3 minus the base amount (ii) multiplied by 0.2.

4 When the applicant is a surviving spouse of an applicant
5 for a prior year for the same residence for which an exemption
6 under this Section has been granted, the base year and base
7 amount for that residence are the same as for the applicant for
8 the prior year.

9 Each year at the time the assessment books are certified to
10 the County Clerk, the Board of Review or Board of Appeals shall
11 give to the County Clerk a list of the assessed values of
12 improvements on each parcel qualifying for this exemption that
13 were added after the base year for this parcel and that
14 increased the assessed value of the property.

15 In the case of land improved with an apartment building
16 owned and operated as a cooperative or a building that is a
17 life care facility that qualifies as a cooperative, the maximum
18 reduction from the equalized assessed value of the property is
19 limited to the sum of the reductions calculated for each unit
20 occupied as a residence by a person or persons (i) 65 years of
21 age or older, (ii) with a household income that does not exceed
22 the maximum income limitation, (iii) who is liable, by contract
23 with the owner or owners of record, for paying real property
24 taxes on the property, and (iv) who is an owner of record of a
25 legal or equitable interest in the cooperative apartment
26 building, other than a leasehold interest. In the instance of a

1 cooperative where a homestead exemption has been granted under
2 this Section, the cooperative association or its management
3 firm shall credit the savings resulting from that exemption
4 only to the apportioned tax liability of the owner who
5 qualified for the exemption. Any person who willfully refuses
6 to credit that savings to an owner who qualifies for the
7 exemption is guilty of a Class B misdemeanor.

8 When a homestead exemption has been granted under this
9 Section and an applicant then becomes a resident of a facility
10 licensed under the Assisted Living and Shared Housing Act, the
11 Nursing Home Care Act, the Specialized Mental Health
12 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
13 the MC/DD Act, the exemption shall be granted in subsequent
14 years so long as the residence (i) continues to be occupied by
15 the qualified applicant's spouse or (ii) if remaining
16 unoccupied, is still owned by the qualified applicant for the
17 homestead exemption.

18 Beginning January 1, 1997, when an individual dies who
19 would have qualified for an exemption under this Section, and
20 the surviving spouse does not independently qualify for this
21 exemption because of age, the exemption under this Section
22 shall be granted to the surviving spouse for the taxable year
23 preceding and the taxable year of the death, provided that,
24 except for age, the surviving spouse meets all other
25 qualifications for the granting of this exemption for those
26 years.

1 When married persons maintain separate residences, the
2 exemption provided for in this Section may be claimed by only
3 one of such persons and for only one residence.

4 For taxable year 1994 only, in counties having less than
5 3,000,000 inhabitants, to receive the exemption, a person shall
6 submit an application by February 15, 1995 to the Chief County
7 Assessment Officer of the county in which the property is
8 located. In counties having 3,000,000 or more inhabitants, for
9 taxable year 1994 and all subsequent taxable years, to receive
10 the exemption, a person may submit an application to the Chief
11 County Assessment Officer of the county in which the property
12 is located during such period as may be specified by the Chief
13 County Assessment Officer. The Chief County Assessment Officer
14 in counties of 3,000,000 or more inhabitants shall annually
15 give notice of the application period by mail or by
16 publication. In counties having less than 3,000,000
17 inhabitants, beginning with taxable year 1995 and thereafter,
18 to receive the exemption, a person shall submit an application
19 by July 1 of each taxable year to the Chief County Assessment
20 Officer of the county in which the property is located. A
21 county may, by ordinance, establish a date for submission of
22 applications that is different than July 1. The applicant shall
23 submit with the application an affidavit of the applicant's
24 total household income, age, marital status (and if married the
25 name and address of the applicant's spouse, if known), and
26 principal dwelling place of members of the household on January

1 of the taxable year. The Department shall establish, by rule,
2 a method for verifying the accuracy of affidavits filed by
3 applicants under this Section, and the Chief County Assessment
4 Officer may conduct audits of any taxpayer claiming an
5 exemption under this Section to verify that the taxpayer is
6 eligible to receive the exemption. Each application shall
7 contain or be verified by a written declaration that it is made
8 under the penalties of perjury. A taxpayer's signing a
9 fraudulent application under this Act is perjury, as defined in
10 Section 32-2 of the Criminal Code of 2012. The applications
11 shall be clearly marked as applications for the Senior Citizens
12 Assessment Freeze Homestead Exemption and must contain a notice
13 that any taxpayer who receives the exemption is subject to an
14 audit by the Chief County Assessment Officer.

15 Notwithstanding any other provision to the contrary, in
16 counties having fewer than 3,000,000 inhabitants, if an
17 applicant fails to file the application required by this
18 Section in a timely manner and this failure to file is due to a
19 mental or physical condition sufficiently severe so as to
20 render the applicant incapable of filing the application in a
21 timely manner, the Chief County Assessment Officer may extend
22 the filing deadline for a period of 30 days after the applicant
23 regains the capability to file the application, but in no case
24 may the filing deadline be extended beyond 3 months of the
25 original filing deadline. In order to receive the extension
26 provided in this paragraph, the applicant shall provide the

1 Chief County Assessment Officer with a signed statement from
2 the applicant's physician stating the nature and extent of the
3 condition, that, in the physician's opinion, the condition was
4 so severe that it rendered the applicant incapable of filing
5 the application in a timely manner, and the date on which the
6 applicant regained the capability to file the application.

7 Beginning January 1, 1998, notwithstanding any other
8 provision to the contrary, in counties having fewer than
9 3,000,000 inhabitants, if an applicant fails to file the
10 application required by this Section in a timely manner and
11 this failure to file is due to a mental or physical condition
12 sufficiently severe so as to render the applicant incapable of
13 filing the application in a timely manner, the Chief County
14 Assessment Officer may extend the filing deadline for a period
15 of 3 months. In order to receive the extension provided in this
16 paragraph, the applicant shall provide the Chief County
17 Assessment Officer with a signed statement from the applicant's
18 physician stating the nature and extent of the condition, and
19 that, in the physician's opinion, the condition was so severe
20 that it rendered the applicant incapable of filing the
21 application in a timely manner.

22 In counties having less than 3,000,000 inhabitants, if an
23 applicant was denied an exemption in taxable year 1994 and the
24 denial occurred due to an error on the part of an assessment
25 official, or his or her agent or employee, then beginning in
26 taxable year 1997 the applicant's base year, for purposes of

1 determining the amount of the exemption, shall be 1993 rather
2 than 1994. In addition, in taxable year 1997, the applicant's
3 exemption shall also include an amount equal to (i) the amount
4 of any exemption denied to the applicant in taxable year 1995
5 as a result of using 1994, rather than 1993, as the base year,
6 (ii) the amount of any exemption denied to the applicant in
7 taxable year 1996 as a result of using 1994, rather than 1993,
8 as the base year, and (iii) the amount of the exemption
9 erroneously denied for taxable year 1994.

10 For purposes of this Section, a person who will be 65 years
11 of age during the current taxable year shall be eligible to
12 apply for the homestead exemption during that taxable year.
13 Application shall be made during the application period in
14 effect for the county of his or her residence.

15 The Chief County Assessment Officer may determine the
16 eligibility of a life care facility that qualifies as a
17 cooperative to receive the benefits provided by this Section by
18 use of an affidavit, application, visual inspection,
19 questionnaire, or other reasonable method in order to insure
20 that the tax savings resulting from the exemption are credited
21 by the management firm to the apportioned tax liability of each
22 qualifying resident. The Chief County Assessment Officer may
23 request reasonable proof that the management firm has so
24 credited that exemption.

25 Except as provided in this Section, all information
26 received by the chief county assessment officer or the

1 Department from applications filed under this Section, or from
2 any investigation conducted under the provisions of this
3 Section, shall be confidential, except for official purposes or
4 pursuant to official procedures for collection of any State or
5 local tax or enforcement of any civil or criminal penalty or
6 sanction imposed by this Act or by any statute or ordinance
7 imposing a State or local tax. Any person who divulges any such
8 information in any manner, except in accordance with a proper
9 judicial order, is guilty of a Class A misdemeanor.

10 Nothing contained in this Section shall prevent the
11 Director or chief county assessment officer from publishing or
12 making available reasonable statistics concerning the
13 operation of the exemption contained in this Section in which
14 the contents of claims are grouped into aggregates in such a
15 way that information contained in any individual claim shall
16 not be disclosed.

17 (d) Each Chief County Assessment Officer shall annually
18 publish a notice of availability of the exemption provided
19 under this Section. The notice shall be published at least 60
20 days but no more than 75 days prior to the date on which the
21 application must be submitted to the Chief County Assessment
22 Officer of the county in which the property is located. The
23 notice shall appear in a newspaper of general circulation in
24 the county.

25 Notwithstanding Sections 6 and 8 of the State Mandates Act,
26 no reimbursement by the State is required for the

1 implementation of any mandate created by this Section.

2 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-689,
3 eff. 6-14-12; 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13;
4 98-104, eff. 7-22-13.)

5 Section 70. The Regional Transportation Authority Act is
6 amended by changing Section 4.03 as follows:

7 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

8 Sec. 4.03. Taxes.

9 (a) In order to carry out any of the powers or purposes of
10 the Authority, the Board may by ordinance adopted with the
11 concurrence of 12 of the then Directors, impose throughout the
12 metropolitan region any or all of the taxes provided in this
13 Section. Except as otherwise provided in this Act, taxes
14 imposed under this Section and civil penalties imposed incident
15 thereto shall be collected and enforced by the State Department
16 of Revenue. The Department shall have the power to administer
17 and enforce the taxes and to determine all rights for refunds
18 for erroneous payments of the taxes. Nothing in this amendatory
19 Act of the 95th General Assembly is intended to invalidate any
20 taxes currently imposed by the Authority. The increased vote
21 requirements to impose a tax shall only apply to actions taken
22 after the effective date of this amendatory Act of the 95th
23 General Assembly.

24 (b) The Board may impose a public transportation tax upon

1 all persons engaged in the metropolitan region in the business
2 of selling at retail motor fuel for operation of motor vehicles
3 upon public highways. The tax shall be at a rate not to exceed
4 5% of the gross receipts from the sales of motor fuel in the
5 course of the business. As used in this Act, the term "motor
6 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
7 The Board may provide for details of the tax. The provisions of
8 any tax shall conform, as closely as may be practicable, to the
9 provisions of the Municipal Retailers Occupation Tax Act,
10 including without limitation, conformity to penalties with
11 respect to the tax imposed and as to the powers of the State
12 Department of Revenue to promulgate and enforce rules and
13 regulations relating to the administration and enforcement of
14 the provisions of the tax imposed, except that reference in the
15 Act to any municipality shall refer to the Authority and the
16 tax shall be imposed only with regard to receipts from sales of
17 motor fuel in the metropolitan region, at rates as limited by
18 this Section.

19 (c) In connection with the tax imposed under paragraph (b)
20 of this Section the Board may impose a tax upon the privilege
21 of using in the metropolitan region motor fuel for the
22 operation of a motor vehicle upon public highways, the tax to
23 be at a rate not in excess of the rate of tax imposed under
24 paragraph (b) of this Section. The Board may provide for
25 details of the tax.

26 (d) The Board may impose a motor vehicle parking tax upon

1 the privilege of parking motor vehicles at off-street parking
2 facilities in the metropolitan region at which a fee is
3 charged, and may provide for reasonable classifications in and
4 exemptions to the tax, for administration and enforcement
5 thereof and for civil penalties and refunds thereunder and may
6 provide criminal penalties thereunder, the maximum penalties
7 not to exceed the maximum criminal penalties provided in the
8 Retailers' Occupation Tax Act. The Authority may collect and
9 enforce the tax itself or by contract with any unit of local
10 government. The State Department of Revenue shall have no
11 responsibility for the collection and enforcement unless the
12 Department agrees with the Authority to undertake the
13 collection and enforcement. As used in this paragraph, the term
14 "parking facility" means a parking area or structure having
15 parking spaces for more than 2 vehicles at which motor vehicles
16 are permitted to park in return for an hourly, daily, or other
17 periodic fee, whether publicly or privately owned, but does not
18 include parking spaces on a public street, the use of which is
19 regulated by parking meters.

20 (e) The Board may impose a Regional Transportation
21 Authority Retailers' Occupation Tax upon all persons engaged in
22 the business of selling tangible personal property at retail in
23 the metropolitan region. In Cook County the tax rate shall be
24 1.25% of the gross receipts from sales of food for human
25 consumption that is to be consumed off the premises where it is
26 sold (other than alcoholic beverages, soft drinks and food that

1 has been prepared for immediate consumption) and prescription
2 and nonprescription medicines, drugs, medical appliances and
3 insulin, urine testing materials, syringes and needles used by
4 diabetics, and 1% of the gross receipts from other taxable
5 sales made in the course of that business. In DuPage, Kane,
6 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%
7 of the gross receipts from all taxable sales made in the course
8 of that business. The tax imposed under this Section and all
9 civil penalties that may be assessed as an incident thereof
10 shall be collected and enforced by the State Department of
11 Revenue. The Department shall have full power to administer and
12 enforce this Section; to collect all taxes and penalties so
13 collected in the manner hereinafter provided; and to determine
14 all rights to credit memoranda arising on account of the
15 erroneous payment of tax or penalty hereunder. In the
16 administration of, and compliance with this Section, the
17 Department and persons who are subject to this Section shall
18 have the same rights, remedies, privileges, immunities, powers
19 and duties, and be subject to the same conditions,
20 restrictions, limitations, penalties, exclusions, exemptions
21 and definitions of terms, and employ the same modes of
22 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
23 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
24 therein other than the State rate of tax), 2c, 3 (except as to
25 the disposition of taxes and penalties collected), 4, 5, 5a,
26 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,

1 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
2 Section 3-7 of the Uniform Penalty and Interest Act, as fully
3 as if those provisions were set forth herein.

4 Persons subject to any tax imposed under the authority
5 granted in this Section may reimburse themselves for their
6 seller's tax liability hereunder by separately stating the tax
7 as an additional charge, which charge may be stated in
8 combination in a single amount with State taxes that sellers
9 are required to collect under the Use Tax Act, under any
10 bracket schedules the Department may prescribe.

11 Whenever the Department determines that a refund should be
12 made under this Section to a claimant instead of issuing a
13 credit memorandum, the Department shall notify the State
14 Comptroller, who shall cause the warrant to be drawn for the
15 amount specified, and to the person named, in the notification
16 from the Department. The refund shall be paid by the State
17 Treasurer out of the Regional Transportation Authority tax fund
18 established under paragraph (n) of this Section.

19 If a tax is imposed under this subsection (e), a tax shall
20 also be imposed under subsections (f) and (g) of this Section.

21 For the purpose of determining whether a tax authorized
22 under this Section is applicable, a retail sale by a producer
23 of coal or other mineral mined in Illinois, is a sale at retail
24 at the place where the coal or other mineral mined in Illinois
25 is extracted from the earth. This paragraph does not apply to
26 coal or other mineral when it is delivered or shipped by the

1 seller to the purchaser at a point outside Illinois so that the
2 sale is exempt under the Federal Constitution as a sale in
3 interstate or foreign commerce.

4 No tax shall be imposed or collected under this subsection
5 on the sale of a motor vehicle in this State to a resident of
6 another state if that motor vehicle will not be titled in this
7 State.

8 Nothing in this Section shall be construed to authorize the
9 Regional Transportation Authority to impose a tax upon the
10 privilege of engaging in any business that under the
11 Constitution of the United States may not be made the subject
12 of taxation by this State.

13 (f) If a tax has been imposed under paragraph (e), a
14 Regional Transportation Authority Service Occupation Tax shall
15 also be imposed upon all persons engaged, in the metropolitan
16 region in the business of making sales of service, who as an
17 incident to making the sales of service, transfer tangible
18 personal property within the metropolitan region, either in the
19 form of tangible personal property or in the form of real
20 estate as an incident to a sale of service. In Cook County, the
21 tax rate shall be: (1) 1.25% of the serviceman's cost price of
22 food prepared for immediate consumption and transferred
23 incident to a sale of service subject to the service occupation
24 tax by an entity licensed under the Hospital Licensing Act, the
25 Nursing Home Care Act, the Specialized Mental Health
26 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or

1 the MC/DD Act that is located in the metropolitan region; (2)
2 1.25% of the selling price of food for human consumption that
3 is to be consumed off the premises where it is sold (other than
4 alcoholic beverages, soft drinks and food that has been
5 prepared for immediate consumption) and prescription and
6 nonprescription medicines, drugs, medical appliances and
7 insulin, urine testing materials, syringes and needles used by
8 diabetics; and (3) 1% of the selling price from other taxable
9 sales of tangible personal property transferred. In DuPage,
10 Kane, Lake, McHenry and Will Counties the rate shall be 0.75%
11 of the selling price of all tangible personal property
12 transferred.

13 The tax imposed under this paragraph and all civil
14 penalties that may be assessed as an incident thereof shall be
15 collected and enforced by the State Department of Revenue. The
16 Department shall have full power to administer and enforce this
17 paragraph; to collect all taxes and penalties due hereunder; to
18 dispose of taxes and penalties collected in the manner
19 hereinafter provided; and to determine all rights to credit
20 memoranda arising on account of the erroneous payment of tax or
21 penalty hereunder. In the administration of and compliance with
22 this paragraph, the Department and persons who are subject to
23 this paragraph shall have the same rights, remedies,
24 privileges, immunities, powers and duties, and be subject to
25 the same conditions, restrictions, limitations, penalties,
26 exclusions, exemptions and definitions of terms, and employ the

1 same modes of procedure, as are prescribed in Sections 1a-1, 2,
2 2a, 3 through 3-50 (in respect to all provisions therein other
3 than the State rate of tax), 4 (except that the reference to
4 the State shall be to the Authority), 5, 7, 8 (except that the
5 jurisdiction to which the tax shall be a debt to the extent
6 indicated in that Section 8 shall be the Authority), 9 (except
7 as to the disposition of taxes and penalties collected, and
8 except that the returned merchandise credit for this tax may
9 not be taken against any State tax), 10, 11, 12 (except the
10 reference therein to Section 2b of the Retailers' Occupation
11 Tax Act), 13 (except that any reference to the State shall mean
12 the Authority), the first paragraph of Section 15, 16, 17, 18,
13 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
14 the Uniform Penalty and Interest Act, as fully as if those
15 provisions were set forth herein.

16 Persons subject to any tax imposed under the authority
17 granted in this paragraph may reimburse themselves for their
18 serviceman's tax liability hereunder by separately stating the
19 tax as an additional charge, that charge may be stated in
20 combination in a single amount with State tax that servicemen
21 are authorized to collect under the Service Use Tax Act, under
22 any bracket schedules the Department may prescribe.

23 Whenever the Department determines that a refund should be
24 made under this paragraph to a claimant instead of issuing a
25 credit memorandum, the Department shall notify the State
26 Comptroller, who shall cause the warrant to be drawn for the

1 amount specified, and to the person named in the notification
2 from the Department. The refund shall be paid by the State
3 Treasurer out of the Regional Transportation Authority tax fund
4 established under paragraph (n) of this Section.

5 Nothing in this paragraph shall be construed to authorize
6 the Authority to impose a tax upon the privilege of engaging in
7 any business that under the Constitution of the United States
8 may not be made the subject of taxation by the State.

9 (g) If a tax has been imposed under paragraph (e), a tax
10 shall also be imposed upon the privilege of using in the
11 metropolitan region, any item of tangible personal property
12 that is purchased outside the metropolitan region at retail
13 from a retailer, and that is titled or registered with an
14 agency of this State's government. In Cook County the tax rate
15 shall be 1% of the selling price of the tangible personal
16 property, as "selling price" is defined in the Use Tax Act. In
17 DuPage, Kane, Lake, McHenry and Will counties the tax rate
18 shall be 0.75% of the selling price of the tangible personal
19 property, as "selling price" is defined in the Use Tax Act. The
20 tax shall be collected from persons whose Illinois address for
21 titling or registration purposes is given as being in the
22 metropolitan region. The tax shall be collected by the
23 Department of Revenue for the Regional Transportation
24 Authority. The tax must be paid to the State, or an exemption
25 determination must be obtained from the Department of Revenue,
26 before the title or certificate of registration for the

1 property may be issued. The tax or proof of exemption may be
2 transmitted to the Department by way of the State agency with
3 which, or the State officer with whom, the tangible personal
4 property must be titled or registered if the Department and the
5 State agency or State officer determine that this procedure
6 will expedite the processing of applications for title or
7 registration.

8 The Department shall have full power to administer and
9 enforce this paragraph; to collect all taxes, penalties and
10 interest due hereunder; to dispose of taxes, penalties and
11 interest collected in the manner hereinafter provided; and to
12 determine all rights to credit memoranda or refunds arising on
13 account of the erroneous payment of tax, penalty or interest
14 hereunder. In the administration of and compliance with this
15 paragraph, the Department and persons who are subject to this
16 paragraph shall have the same rights, remedies, privileges,
17 immunities, powers and duties, and be subject to the same
18 conditions, restrictions, limitations, penalties, exclusions,
19 exemptions and definitions of terms and employ the same modes
20 of procedure, as are prescribed in Sections 2 (except the
21 definition of "retailer maintaining a place of business in this
22 State"), 3 through 3-80 (except provisions pertaining to the
23 State rate of tax, and except provisions concerning collection
24 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
25 19 (except the portions pertaining to claims by retailers and
26 except the last paragraph concerning refunds), 20, 21 and 22 of

1 the Use Tax Act, and are not inconsistent with this paragraph,
2 as fully as if those provisions were set forth herein.

3 Whenever the Department determines that a refund should be
4 made under this paragraph to a claimant instead of issuing a
5 credit memorandum, the Department shall notify the State
6 Comptroller, who shall cause the order to be drawn for the
7 amount specified, and to the person named in the notification
8 from the Department. The refund shall be paid by the State
9 Treasurer out of the Regional Transportation Authority tax fund
10 established under paragraph (n) of this Section.

11 (h) The Authority may impose a replacement vehicle tax of
12 \$50 on any passenger car as defined in Section 1-157 of the
13 Illinois Vehicle Code purchased within the metropolitan region
14 by or on behalf of an insurance company to replace a passenger
15 car of an insured person in settlement of a total loss claim.
16 The tax imposed may not become effective before the first day
17 of the month following the passage of the ordinance imposing
18 the tax and receipt of a certified copy of the ordinance by the
19 Department of Revenue. The Department of Revenue shall collect
20 the tax for the Authority in accordance with Sections 3-2002
21 and 3-2003 of the Illinois Vehicle Code.

22 The Department shall immediately pay over to the State
23 Treasurer, ex officio, as trustee, all taxes collected
24 hereunder.

25 As soon as possible after the first day of each month,
26 beginning January 1, 2011, upon certification of the Department

1 of Revenue, the Comptroller shall order transferred, and the
2 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
3 local sales tax increment, as defined in the Innovation
4 Development and Economy Act, collected under this Section
5 during the second preceding calendar month for sales within a
6 STAR bond district.

7 After the monthly transfer to the STAR Bonds Revenue Fund,
8 on or before the 25th day of each calendar month, the
9 Department shall prepare and certify to the Comptroller the
10 disbursement of stated sums of money to the Authority. The
11 amount to be paid to the Authority shall be the amount
12 collected hereunder during the second preceding calendar month
13 by the Department, less any amount determined by the Department
14 to be necessary for the payment of refunds, and less any
15 amounts that are transferred to the STAR Bonds Revenue Fund.
16 Within 10 days after receipt by the Comptroller of the
17 disbursement certification to the Authority provided for in
18 this Section to be given to the Comptroller by the Department,
19 the Comptroller shall cause the orders to be drawn for that
20 amount in accordance with the directions contained in the
21 certification.

22 (i) The Board may not impose any other taxes except as it
23 may from time to time be authorized by law to impose.

24 (j) A certificate of registration issued by the State
25 Department of Revenue to a retailer under the Retailers'
26 Occupation Tax Act or under the Service Occupation Tax Act

1 shall permit the registrant to engage in a business that is
2 taxed under the tax imposed under paragraphs (b), (e), (f) or
3 (g) of this Section and no additional registration shall be
4 required under the tax. A certificate issued under the Use Tax
5 Act or the Service Use Tax Act shall be applicable with regard
6 to any tax imposed under paragraph (c) of this Section.

7 (k) The provisions of any tax imposed under paragraph (c)
8 of this Section shall conform as closely as may be practicable
9 to the provisions of the Use Tax Act, including without
10 limitation conformity as to penalties with respect to the tax
11 imposed and as to the powers of the State Department of Revenue
12 to promulgate and enforce rules and regulations relating to the
13 administration and enforcement of the provisions of the tax
14 imposed. The taxes shall be imposed only on use within the
15 metropolitan region and at rates as provided in the paragraph.

16 (l) The Board in imposing any tax as provided in paragraphs
17 (b) and (c) of this Section, shall, after seeking the advice of
18 the State Department of Revenue, provide means for retailers,
19 users or purchasers of motor fuel for purposes other than those
20 with regard to which the taxes may be imposed as provided in
21 those paragraphs to receive refunds of taxes improperly paid,
22 which provisions may be at variance with the refund provisions
23 as applicable under the Municipal Retailers Occupation Tax Act.
24 The State Department of Revenue may provide for certificates of
25 registration for users or purchasers of motor fuel for purposes
26 other than those with regard to which taxes may be imposed as

1 provided in paragraphs (b) and (c) of this Section to
2 facilitate the reporting and nontaxability of the exempt sales
3 or uses.

4 (m) Any ordinance imposing or discontinuing any tax under
5 this Section shall be adopted and a certified copy thereof
6 filed with the Department on or before June 1, whereupon the
7 Department of Revenue shall proceed to administer and enforce
8 this Section on behalf of the Regional Transportation Authority
9 as of September 1 next following such adoption and filing.
10 Beginning January 1, 1992, an ordinance or resolution imposing
11 or discontinuing the tax hereunder shall be adopted and a
12 certified copy thereof filed with the Department on or before
13 the first day of July, whereupon the Department shall proceed
14 to administer and enforce this Section as of the first day of
15 October next following such adoption and filing. Beginning
16 January 1, 1993, an ordinance or resolution imposing,
17 increasing, decreasing, or discontinuing the tax hereunder
18 shall be adopted and a certified copy thereof filed with the
19 Department, whereupon the Department shall proceed to
20 administer and enforce this Section as of the first day of the
21 first month to occur not less than 60 days following such
22 adoption and filing. Any ordinance or resolution of the
23 Authority imposing a tax under this Section and in effect on
24 August 1, 2007 shall remain in full force and effect and shall
25 be administered by the Department of Revenue under the terms
26 and conditions and rates of tax established by such ordinance

1 or resolution until the Department begins administering and
2 enforcing an increased tax under this Section as authorized by
3 this amendatory Act of the 95th General Assembly. The tax rates
4 authorized by this amendatory Act of the 95th General Assembly
5 are effective only if imposed by ordinance of the Authority.

6 (n) The State Department of Revenue shall, upon collecting
7 any taxes as provided in this Section, pay the taxes over to
8 the State Treasurer as trustee for the Authority. The taxes
9 shall be held in a trust fund outside the State Treasury. On or
10 before the 25th day of each calendar month, the State
11 Department of Revenue shall prepare and certify to the
12 Comptroller of the State of Illinois and to the Authority (i)
13 the amount of taxes collected in each County other than Cook
14 County in the metropolitan region, (ii) the amount of taxes
15 collected within the City of Chicago, and (iii) the amount
16 collected in that portion of Cook County outside of Chicago,
17 each amount less the amount necessary for the payment of
18 refunds to taxpayers located in those areas described in items
19 (i), (ii), and (iii). Within 10 days after receipt by the
20 Comptroller of the certification of the amounts, the
21 Comptroller shall cause an order to be drawn for the payment of
22 two-thirds of the amounts certified in item (i) of this
23 subsection to the Authority and one-third of the amounts
24 certified in item (i) of this subsection to the respective
25 counties other than Cook County and the amount certified in
26 items (ii) and (iii) of this subsection to the Authority.

1 In addition to the disbursement required by the preceding
2 paragraph, an allocation shall be made in July 1991 and each
3 year thereafter to the Regional Transportation Authority. The
4 allocation shall be made in an amount equal to the average
5 monthly distribution during the preceding calendar year
6 (excluding the 2 months of lowest receipts) and the allocation
7 shall include the amount of average monthly distribution from
8 the Regional Transportation Authority Occupation and Use Tax
9 Replacement Fund. The distribution made in July 1992 and each
10 year thereafter under this paragraph and the preceding
11 paragraph shall be reduced by the amount allocated and
12 disbursed under this paragraph in the preceding calendar year.
13 The Department of Revenue shall prepare and certify to the
14 Comptroller for disbursement the allocations made in
15 accordance with this paragraph.

16 (o) Failure to adopt a budget ordinance or otherwise to
17 comply with Section 4.01 of this Act or to adopt a Five-year
18 Capital Program or otherwise to comply with paragraph (b) of
19 Section 2.01 of this Act shall not affect the validity of any
20 tax imposed by the Authority otherwise in conformity with law.

21 (p) At no time shall a public transportation tax or motor
22 vehicle parking tax authorized under paragraphs (b), (c) and
23 (d) of this Section be in effect at the same time as any
24 retailers' occupation, use or service occupation tax
25 authorized under paragraphs (e), (f) and (g) of this Section is
26 in effect.

1 Any taxes imposed under the authority provided in
2 paragraphs (b), (c) and (d) shall remain in effect only until
3 the time as any tax authorized by paragraphs (e), (f) or (g) of
4 this Section are imposed and becomes effective. Once any tax
5 authorized by paragraphs (e), (f) or (g) is imposed the Board
6 may not reimpose taxes as authorized in paragraphs (b), (c) and
7 (d) of the Section unless any tax authorized by paragraphs (e),
8 (f) or (g) of this Section becomes ineffective by means other
9 than an ordinance of the Board.

10 (q) Any existing rights, remedies and obligations
11 (including enforcement by the Regional Transportation
12 Authority) arising under any tax imposed under paragraphs (b),
13 (c) or (d) of this Section shall not be affected by the
14 imposition of a tax under paragraphs (e), (f) or (g) of this
15 Section.

16 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
17 eff. 7-13-12; 98-104, eff. 7-22-13.)

18 Section 75. The Alternative Health Care Delivery Act is
19 amended by changing Section 15 as follows:

20 (210 ILCS 3/15)

21 Sec. 15. License required. No health care facility or
22 program that meets the definition and scope of an alternative
23 health care model shall operate as such unless it is a
24 participant in a demonstration program under this Act and

1 licensed by the Department as an alternative health care model.
2 The provisions of this Act concerning children's
3 community-based health care centers shall not apply to any
4 facility licensed under the Hospital Licensing Act, the Nursing
5 Home Care Act, the Specialized Mental Health Rehabilitation Act
6 of 2013, the ID/DD Community Care Act, the MC/DD Act, or the
7 University of Illinois Hospital Act that provides respite care
8 services to children.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-135, eff. 7-14-11;
10 97-227, eff. 1-1-12; 97-813, eff. 7-13-12; 98-629, eff.
11 1-1-15.)

12 Section 80. The Ambulatory Surgical Treatment Center Act is
13 amended by changing Section 3 as follows:

14 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

15 Sec. 3. As used in this Act, unless the context otherwise
16 requires, the following words and phrases shall have the
17 meanings ascribed to them:

18 (A) "Ambulatory surgical treatment center" means any
19 institution, place or building devoted primarily to the
20 maintenance and operation of facilities for the performance of
21 surgical procedures. "Ambulatory surgical treatment center"
22 includes any place that meets and complies with the definition
23 of an ambulatory surgical treatment center under the rules
24 adopted by the Department or any facility in which a medical or

1 surgical procedure is utilized to terminate a pregnancy,
2 irrespective of whether the facility is devoted primarily to
3 this purpose. Such facility shall not provide beds or other
4 accommodations for the overnight stay of patients; however,
5 facilities devoted exclusively to the treatment of children may
6 provide accommodations and beds for their patients for up to 23
7 hours following admission. Individual patients shall be
8 discharged in an ambulatory condition without danger to the
9 continued well being of the patients or shall be transferred to
10 a hospital.

11 The term "ambulatory surgical treatment center" does not
12 include any of the following:

13 (1) Any institution, place, building or agency
14 required to be licensed pursuant to the "Hospital Licensing
15 Act", approved July 1, 1953, as amended.

16 (2) Any person or institution required to be licensed
17 pursuant to the Nursing Home Care Act, the Specialized
18 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
19 Community Care Act, or the MC/DD Act.

20 (3) Hospitals or ambulatory surgical treatment centers
21 maintained by the State or any department or agency
22 thereof, where such department or agency has authority
23 under law to establish and enforce standards for the
24 hospitals or ambulatory surgical treatment centers under
25 its management and control.

26 (4) Hospitals or ambulatory surgical treatment centers

1 maintained by the Federal Government or agencies thereof.

2 (5) Any place, agency, clinic, or practice, public or
3 private, whether organized for profit or not, devoted
4 exclusively to the performance of dental or oral surgical
5 procedures.

6 (B) "Person" means any individual, firm, partnership,
7 corporation, company, association, or joint stock association,
8 or the legal successor thereof.

9 (C) "Department" means the Department of Public Health of
10 the State of Illinois.

11 (D) "Director" means the Director of the Department of
12 Public Health of the State of Illinois.

13 (E) "Physician" means a person licensed to practice
14 medicine in all of its branches in the State of Illinois.

15 (F) "Dentist" means a person licensed to practice dentistry
16 under the Illinois Dental Practice Act.

17 (G) "Podiatric physician" means a person licensed to
18 practice podiatry under the Podiatric Medical Practice Act of
19 1987.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 98-214, eff. 8-9-13; 98-1123, eff. 1-1-15.)

22 Section 85. The Assisted Living and Shared Housing Act is
23 amended by changing Sections 10, 35, 55, and 145 as follows:

24 (210 ILCS 9/10)

1 Sec. 10. Definitions. For purposes of this Act:

2 "Activities of daily living" means eating, dressing,
3 bathing, toileting, transferring, or personal hygiene.

4 "Assisted living establishment" or "establishment" means a
5 home, building, residence, or any other place where sleeping
6 accommodations are provided for at least 3 unrelated adults, at
7 least 80% of whom are 55 years of age or older and where the
8 following are provided consistent with the purposes of this
9 Act:

10 (1) services consistent with a social model that is
11 based on the premise that the resident's unit in assisted
12 living and shared housing is his or her own home;

13 (2) community-based residential care for persons who
14 need assistance with activities of daily living, including
15 personal, supportive, and intermittent health-related
16 services available 24 hours per day, if needed, to meet the
17 scheduled and unscheduled needs of a resident;

18 (3) mandatory services, whether provided directly by
19 the establishment or by another entity arranged for by the
20 establishment, with the consent of the resident or
21 resident's representative; and

22 (4) a physical environment that is a homelike setting
23 that includes the following and such other elements as
24 established by the Department: individual living units
25 each of which shall accommodate small kitchen appliances
26 and contain private bathing, washing, and toilet

1 facilities, or private washing and toilet facilities with a
2 common bathing room readily accessible to each resident.
3 Units shall be maintained for single occupancy except in
4 cases in which 2 residents choose to share a unit.
5 Sufficient common space shall exist to permit individual
6 and group activities.

7 "Assisted living establishment" or "establishment" does
8 not mean any of the following:

9 (1) A home, institution, or similar place operated by
10 the federal government or the State of Illinois.

11 (2) A long term care facility licensed under the
12 Nursing Home Care Act, a facility licensed under the
13 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ a
14 facility licensed under the ID/DD Community Care Act, or a
15 facility licensed under the MC/DD Act. However, a facility
16 licensed under any ~~either~~ of those Acts may convert
17 distinct parts of the facility to assisted living. If the
18 facility elects to do so, the facility shall retain the
19 Certificate of Need for its nursing and sheltered care beds
20 that were converted.

21 (3) A hospital, sanitarium, or other institution, the
22 principal activity or business of which is the diagnosis,
23 care, and treatment of human illness and that is required
24 to be licensed under the Hospital Licensing Act.

25 (4) A facility for child care as defined in the Child
26 Care Act of 1969.

1 (5) A community living facility as defined in the
2 Community Living Facilities Licensing Act.

3 (6) A nursing home or sanitarium operated solely by and
4 for persons who rely exclusively upon treatment by
5 spiritual means through prayer in accordance with the creed
6 or tenants of a well-recognized church or religious
7 denomination.

8 (7) A facility licensed by the Department of Human
9 Services as a community-integrated living arrangement as
10 defined in the Community-Integrated Living Arrangements
11 Licensure and Certification Act.

12 (8) A supportive residence licensed under the
13 Supportive Residences Licensing Act.

14 (9) The portion of a life care facility as defined in
15 the Life Care Facilities Act not licensed as an assisted
16 living establishment under this Act; a life care facility
17 may apply under this Act to convert sections of the
18 community to assisted living.

19 (10) A free-standing hospice facility licensed under
20 the Hospice Program Licensing Act.

21 (11) A shared housing establishment.

22 (12) A supportive living facility as described in
23 Section 5-5.01a of the Illinois Public Aid Code.

24 "Department" means the Department of Public Health.

25 "Director" means the Director of Public Health.

26 "Emergency situation" means imminent danger of death or

1 serious physical harm to a resident of an establishment.

2 "License" means any of the following types of licenses
3 issued to an applicant or licensee by the Department:

4 (1) "Probationary license" means a license issued to an
5 applicant or licensee that has not held a license under
6 this Act prior to its application or pursuant to a license
7 transfer in accordance with Section 50 of this Act.

8 (2) "Regular license" means a license issued by the
9 Department to an applicant or licensee that is in
10 substantial compliance with this Act and any rules
11 promulgated under this Act.

12 "Licensee" means a person, agency, association,
13 corporation, partnership, or organization that has been issued
14 a license to operate an assisted living or shared housing
15 establishment.

16 "Licensed health care professional" means a registered
17 professional nurse, an advanced practice nurse, a physician
18 assistant, and a licensed practical nurse.

19 "Mandatory services" include the following:

20 (1) 3 meals per day available to the residents prepared
21 by the establishment or an outside contractor;

22 (2) housekeeping services including, but not limited
23 to, vacuuming, dusting, and cleaning the resident's unit;

24 (3) personal laundry and linen services available to
25 the residents provided or arranged for by the
26 establishment;

1 (4) security provided 24 hours each day including, but
2 not limited to, locked entrances or building or contract
3 security personnel;

4 (5) an emergency communication response system, which
5 is a procedure in place 24 hours each day by which a
6 resident can notify building management, an emergency
7 response vendor, or others able to respond to his or her
8 need for assistance; and

9 (6) assistance with activities of daily living as
10 required by each resident.

11 "Negotiated risk" is the process by which a resident, or
12 his or her representative, may formally negotiate with
13 providers what risks each are willing and unwilling to assume
14 in service provision and the resident's living environment. The
15 provider assures that the resident and the resident's
16 representative, if any, are informed of the risks of these
17 decisions and of the potential consequences of assuming these
18 risks.

19 "Owner" means the individual, partnership, corporation,
20 association, or other person who owns an assisted living or
21 shared housing establishment. In the event an assisted living
22 or shared housing establishment is operated by a person who
23 leases or manages the physical plant, which is owned by another
24 person, "owner" means the person who operates the assisted
25 living or shared housing establishment, except that if the
26 person who owns the physical plant is an affiliate of the

1 person who operates the assisted living or shared housing
2 establishment and has significant control over the day to day
3 operations of the assisted living or shared housing
4 establishment, the person who owns the physical plant shall
5 incur jointly and severally with the owner all liabilities
6 imposed on an owner under this Act.

7 "Physician" means a person licensed under the Medical
8 Practice Act of 1987 to practice medicine in all of its
9 branches.

10 "Resident" means a person residing in an assisted living or
11 shared housing establishment.

12 "Resident's representative" means a person, other than the
13 owner, agent, or employee of an establishment or of the health
14 care provider unless related to the resident, designated in
15 writing by a resident to be his or her representative. This
16 designation may be accomplished through the Illinois Power of
17 Attorney Act, pursuant to the guardianship process under the
18 Probate Act of 1975, or pursuant to an executed designation of
19 representative form specified by the Department.

20 "Self" means the individual or the individual's designated
21 representative.

22 "Shared housing establishment" or "establishment" means a
23 publicly or privately operated free-standing residence for 16
24 or fewer persons, at least 80% of whom are 55 years of age or
25 older and who are unrelated to the owners and one manager of
26 the residence, where the following are provided:

1 (1) services consistent with a social model that is
2 based on the premise that the resident's unit is his or her
3 own home;

4 (2) community-based residential care for persons who
5 need assistance with activities of daily living, including
6 housing and personal, supportive, and intermittent
7 health-related services available 24 hours per day, if
8 needed, to meet the scheduled and unscheduled needs of a
9 resident; and

10 (3) mandatory services, whether provided directly by
11 the establishment or by another entity arranged for by the
12 establishment, with the consent of the resident or the
13 resident's representative.

14 "Shared housing establishment" or "establishment" does not
15 mean any of the following:

16 (1) A home, institution, or similar place operated by
17 the federal government or the State of Illinois.

18 (2) A long term care facility licensed under the
19 Nursing Home Care Act, a facility licensed under the
20 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ a
21 facility licensed under the ID/DD Community Care Act, or a
22 facility licensed under the MC/DD Act. A facility licensed
23 under any ~~either~~ of those Acts may, however, convert
24 sections of the facility to assisted living. If the
25 facility elects to do so, the facility shall retain the
26 Certificate of Need for its nursing beds that were

1 converted.

2 (3) A hospital, sanitarium, or other institution, the
3 principal activity or business of which is the diagnosis,
4 care, and treatment of human illness and that is required
5 to be licensed under the Hospital Licensing Act.

6 (4) A facility for child care as defined in the Child
7 Care Act of 1969.

8 (5) A community living facility as defined in the
9 Community Living Facilities Licensing Act.

10 (6) A nursing home or sanitarium operated solely by and
11 for persons who rely exclusively upon treatment by
12 spiritual means through prayer in accordance with the creed
13 or tenants of a well-recognized church or religious
14 denomination.

15 (7) A facility licensed by the Department of Human
16 Services as a community-integrated living arrangement as
17 defined in the Community-Integrated Living Arrangements
18 Licensure and Certification Act.

19 (8) A supportive residence licensed under the
20 Supportive Residences Licensing Act.

21 (9) A life care facility as defined in the Life Care
22 Facilities Act; a life care facility may apply under this
23 Act to convert sections of the community to assisted
24 living.

25 (10) A free-standing hospice facility licensed under
26 the Hospice Program Licensing Act.

1 (11) An assisted living establishment.

2 (12) A supportive living facility as described in
3 Section 5-5.01a of the Illinois Public Aid Code.

4 "Total assistance" means that staff or another individual
5 performs the entire activity of daily living without
6 participation by the resident.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 98-104, eff. 7-22-13.)

9 (210 ILCS 9/35)

10 Sec. 35. Issuance of license.

11 (a) Upon receipt and review of an application for a license
12 and review of the applicant establishment, the Director may
13 issue a license if he or she finds:

14 (1) that the individual applicant, or the corporation,
15 partnership, or other entity if the applicant is not an
16 individual, is a person responsible and suitable to operate
17 or to direct or participate in the operation of an
18 establishment by virtue of financial capacity, appropriate
19 business or professional experience, a record of lawful
20 compliance with lawful orders of the Department and lack of
21 revocation of a license issued under this Act, the Nursing
22 Home Care Act, the Specialized Mental Health
23 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
24 Act, or the MC/DD Act during the previous 5 years;

25 (2) that the establishment is under the supervision of

1 a full-time director who is at least 21 years of age and
2 has a high school diploma or equivalent plus either:

3 (A) 2 years of management experience or 2 years of
4 experience in positions of progressive responsibility
5 in health care, housing with services, or adult day
6 care or providing similar services to the elderly; or

7 (B) 2 years of management experience or 2 years of
8 experience in positions of progressive responsibility
9 in hospitality and training in health care and housing
10 with services management as defined by rule;

11 (3) that the establishment has staff sufficient in
12 number with qualifications, adequate skills, education,
13 and experience to meet the 24 hour scheduled and
14 unscheduled needs of residents and who participate in
15 ongoing training to serve the resident population;

16 (4) that all employees who are subject to the Health
17 Care Worker Background Check Act meet the requirements of
18 that Act;

19 (5) that the applicant is in substantial compliance
20 with this Act and such other requirements for a license as
21 the Department by rule may establish under this Act;

22 (6) that the applicant pays all required fees;

23 (7) that the applicant has provided to the Department
24 an accurate disclosure document in accordance with the
25 Alzheimer's Disease and Related Dementias Special Care
26 Disclosure Act and in substantial compliance with Section

1 150 of this Act.

2 In addition to any other requirements set forth in this
3 Act, as a condition of licensure under this Act, the director
4 of an establishment must participate in at least 20 hours of
5 training every 2 years to assist him or her in better meeting
6 the needs of the residents of the establishment and managing
7 the operation of the establishment.

8 Any license issued by the Director shall state the physical
9 location of the establishment, the date the license was issued,
10 and the expiration date. All licenses shall be valid for one
11 year, except as provided in Sections 40 and 45. Each license
12 shall be issued only for the premises and persons named in the
13 application, and shall not be transferable or assignable.

14 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
15 eff. 7-13-12; 98-104, eff. 7-22-13.)

16 (210 ILCS 9/55)

17 Sec. 55. Grounds for denial of a license. An application
18 for a license may be denied for any of the following reasons:

19 (1) failure to meet any of the standards set forth in
20 this Act or by rules adopted by the Department under this
21 Act;

22 (2) conviction of the applicant, or if the applicant is
23 a firm, partnership, or association, of any of its members,
24 or if a corporation, the conviction of the corporation or
25 any of its officers or stockholders, or of the person

1 designated to manage or supervise the establishment, of a
2 felony or of 2 or more misdemeanors involving moral
3 turpitude during the previous 5 years as shown by a
4 certified copy of the record of the court of conviction;

5 (3) personnel insufficient in number or unqualified by
6 training or experience to properly care for the residents;

7 (4) insufficient financial or other resources to
8 operate and conduct the establishment in accordance with
9 standards adopted by the Department under this Act;

10 (5) revocation of a license during the previous 5
11 years, if such prior license was issued to the individual
12 applicant, a controlling owner or controlling combination
13 of owners of the applicant; or any affiliate of the
14 individual applicant or controlling owner of the applicant
15 and such individual applicant, controlling owner of the
16 applicant or affiliate of the applicant was a controlling
17 owner of the prior license; provided, however, that the
18 denial of an application for a license pursuant to this
19 Section must be supported by evidence that the prior
20 revocation renders the applicant unqualified or incapable
21 of meeting or maintaining an establishment in accordance
22 with the standards and rules adopted by the Department
23 under this Act; or

24 (6) the establishment is not under the direct
25 supervision of a full-time director, as defined by rule.

26 The Department shall deny an application for a license if 6

1 months after submitting its initial application the applicant
2 has not provided the Department with all of the information
3 required for review and approval or the applicant is not
4 actively pursuing the processing of its application. In
5 addition, the Department shall determine whether the applicant
6 has violated any provision of the Nursing Home Care Act, the
7 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
8 ID/DD Community Care Act, or the MC/DD Act.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
10 eff. 7-13-12; 98-104, eff. 7-22-13.)

11 (210 ILCS 9/145)

12 Sec. 145. Conversion of facilities. Entities licensed as
13 facilities under the Nursing Home Care Act, the Specialized
14 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
15 Community Care Act, or the MC/DD Act may elect to convert to a
16 license under this Act. Any facility that chooses to convert,
17 in whole or in part, shall follow the requirements in the
18 Nursing Home Care Act, the Specialized Mental Health
19 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
20 the MC/DD Act, as applicable, and rules promulgated under those
21 Acts regarding voluntary closure and notice to residents. Any
22 conversion of existing beds licensed under the Nursing Home
23 Care Act, the Specialized Mental Health Rehabilitation Act of
24 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act to
25 licensure under this Act is exempt from review by the Health

1 Facilities and Services Review Board.

2 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
3 eff. 7-13-12; 98-104, eff. 7-22-13.)

4 Section 90. The Abuse Prevention Review Team Act is amended
5 by changing Sections 10 and 50 as follows:

6 (210 ILCS 28/10)

7 Sec. 10. Definitions. As used in this Act, unless the
8 context requires otherwise:

9 "Department" means the Department of Public Health.

10 "Director" means the Director of Public Health.

11 "Executive Council" means the Illinois Residential Health
12 Care Facility Resident Sexual Assault and Death Review Teams
13 Executive Council.

14 "Resident" means a person residing in and receiving
15 personal care from a facility licensed under the Nursing Home
16 Care Act, the Specialized Mental Health Rehabilitation Act of
17 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act.

18 "Review team" means a residential health care facility
19 resident sexual assault and death review team appointed under
20 this Act.

21 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
22 eff. 7-13-12; 98-104, eff. 7-22-13.)

23 (210 ILCS 28/50)

1 Sec. 50. Funding. Notwithstanding any other provision of
2 law, to the extent permitted by federal law, the Department
3 shall use moneys from fines paid by facilities licensed under
4 the Nursing Home Care Act, the Specialized Mental Health
5 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
6 the MC/DD Act for violating requirements for certification
7 under Titles XVIII and XIX of the Social Security Act to
8 implement the provisions of this Act. The Department shall use
9 moneys deposited in the Long Term Care Monitor/Receiver Fund to
10 pay the costs of implementing this Act that cannot be met by
11 the use of federal civil monetary penalties.

12 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
13 eff. 7-13-12; 98-104, eff. 7-22-13.)

14 Section 95. The Abused and Neglected Long Term Care
15 Facility Residents Reporting Act is amended by changing
16 Sections 3, 4, and 6 as follows:

17 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

18 Sec. 3. As used in this Act unless the context otherwise
19 requires:

20 a. "Department" means the Department of Public Health of
21 the State of Illinois.

22 b. "Resident" means a person residing in and receiving
23 personal care from a long term care facility, or residing in a
24 mental health facility or developmental disability facility as

1 defined in the Mental Health and Developmental Disabilities
2 Code.

3 c. "Long term care facility" has the same meaning ascribed
4 to such term in the Nursing Home Care Act, except that the term
5 as used in this Act shall include any mental health facility or
6 developmental disability facility as defined in the Mental
7 Health and Developmental Disabilities Code. The term also
8 includes any facility licensed under the ID/DD Community Care
9 Act, the MC/DD Act, or the Specialized Mental Health
10 Rehabilitation Act of 2013.

11 d. "Abuse" means any physical injury, sexual abuse or
12 mental injury inflicted on a resident other than by accidental
13 means.

14 e. "Neglect" means a failure in a long term care facility
15 to provide adequate medical or personal care or maintenance,
16 which failure results in physical or mental injury to a
17 resident or in the deterioration of a resident's physical or
18 mental condition.

19 f. "Protective services" means services provided to a
20 resident who has been abused or neglected, which may include,
21 but are not limited to alternative temporary institutional
22 placement, nursing care, counseling, other social services
23 provided at the nursing home where the resident resides or at
24 some other facility, personal care and such protective services
25 of voluntary agencies as are available.

26 g. Unless the context otherwise requires, direct or

1 indirect references in this Act to the programs, personnel,
2 facilities, services, service providers, or service recipients
3 of the Department of Human Services shall be construed to refer
4 only to those programs, personnel, facilities, services,
5 service providers, or service recipients that pertain to the
6 Department of Human Services' mental health and developmental
7 disabilities functions.

8 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
9 eff. 7-13-12; 98-104, eff. 7-22-13.)

10 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

11 Sec. 4. Any long term care facility administrator, agent or
12 employee or any physician, hospital, surgeon, dentist,
13 osteopath, chiropractor, podiatric physician, accredited
14 religious practitioner who provides treatment by spiritual
15 means alone through prayer in accordance with the tenets and
16 practices of the accrediting church, coroner, social worker,
17 social services administrator, registered nurse, law
18 enforcement officer, field personnel of the Department of
19 Healthcare and Family Services, field personnel of the Illinois
20 Department of Public Health and County or Municipal Health
21 Departments, personnel of the Department of Human Services
22 (acting as the successor to the Department of Mental Health and
23 Developmental Disabilities or the Department of Public Aid),
24 personnel of the Guardianship and Advocacy Commission,
25 personnel of the State Fire Marshal, local fire department

1 inspectors or other personnel, or personnel of the Illinois
2 Department on Aging, or its subsidiary Agencies on Aging, or
3 employee of a facility licensed under the Assisted Living and
4 Shared Housing Act, having reasonable cause to believe any
5 resident with whom they have direct contact has been subjected
6 to abuse or neglect shall immediately report or cause a report
7 to be made to the Department. Persons required to make reports
8 or cause reports to be made under this Section include all
9 employees of the State of Illinois who are involved in
10 providing services to residents, including professionals
11 providing medical or rehabilitation services and all other
12 persons having direct contact with residents; and further
13 include all employees of community service agencies who provide
14 services to a resident of a public or private long term care
15 facility outside of that facility. Any long term care surveyor
16 of the Illinois Department of Public Health who has reasonable
17 cause to believe in the course of a survey that a resident has
18 been abused or neglected and initiates an investigation while
19 on site at the facility shall be exempt from making a report
20 under this Section but the results of any such investigation
21 shall be forwarded to the central register in a manner and form
22 described by the Department.

23 The requirement of this Act shall not relieve any long term
24 care facility administrator, agent or employee of
25 responsibility to report the abuse or neglect of a resident
26 under Section 3-610 of the Nursing Home Care Act or under

1 Section 3-610 of the ID/DD Community Care Act or under Section
2 3-610 of the MC/DD Act or under Section 2-107 of the
3 Specialized Mental Health Rehabilitation Act of 2013.

4 In addition to the above persons required to report
5 suspected resident abuse and neglect, any other person may make
6 a report to the Department, or to any law enforcement officer,
7 if such person has reasonable cause to suspect a resident has
8 been abused or neglected.

9 This Section also applies to residents whose death occurs
10 from suspected abuse or neglect before being found or brought
11 to a hospital.

12 A person required to make reports or cause reports to be
13 made under this Section who fails to comply with the
14 requirements of this Section is guilty of a Class A
15 misdemeanor.

16 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
17 eff. 7-13-12; 98-104, eff. 7-22-13; 98-214, eff. 8-9-13;
18 98-756, eff. 7-16-14.)

19 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

20 Sec. 6. All reports of suspected abuse or neglect made
21 under this Act shall be made immediately by telephone to the
22 Department's central register established under Section 14 on
23 the single, State-wide, toll-free telephone number established
24 under Section 13, or in person or by telephone through the
25 nearest Department office. No long term care facility

1 administrator, agent or employee, or any other person, shall
2 screen reports or otherwise withhold any reports from the
3 Department, and no long term care facility, department of State
4 government, or other agency shall establish any rules,
5 criteria, standards or guidelines to the contrary. Every long
6 term care facility, department of State government and other
7 agency whose employees are required to make or cause to be made
8 reports under Section 4 shall notify its employees of the
9 provisions of that Section and of this Section, and provide to
10 the Department documentation that such notification has been
11 given. The Department of Human Services shall train all of its
12 mental health and developmental disabilities employees in the
13 detection and reporting of suspected abuse and neglect of
14 residents. Reports made to the central register through the
15 State-wide, toll-free telephone number shall be transmitted to
16 appropriate Department offices and municipal health
17 departments that have responsibility for licensing long term
18 care facilities under the Nursing Home Care Act, the
19 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
20 ID/DD Community Care Act, or the MC/DD Act. All reports
21 received through offices of the Department shall be forwarded
22 to the central register, in a manner and form described by the
23 Department. The Department shall be capable of receiving
24 reports of suspected abuse and neglect 24 hours a day, 7 days a
25 week. Reports shall also be made in writing deposited in the
26 U.S. mail, postage prepaid, within 24 hours after having

1 reasonable cause to believe that the condition of the resident
2 resulted from abuse or neglect. Such reports may in addition be
3 made to the local law enforcement agency in the same manner.
4 However, in the event a report is made to the local law
5 enforcement agency, the reporter also shall immediately so
6 inform the Department. The Department shall initiate an
7 investigation of each report of resident abuse and neglect
8 under this Act, whether oral or written, as provided for in
9 Section 3-702 of the Nursing Home Care Act, Section 2-208 of
10 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
11 Section 3-702 of the ID/DD Community Care Act, or Section 3-702
12 of the MC/DD Act, except that reports of abuse which indicate
13 that a resident's life or safety is in imminent danger shall be
14 investigated within 24 hours of such report. The Department may
15 delegate to law enforcement officials or other public agencies
16 the duty to perform such investigation.

17 With respect to investigations of reports of suspected
18 abuse or neglect of residents of mental health and
19 developmental disabilities institutions under the jurisdiction
20 of the Department of Human Services, the Department shall
21 transmit copies of such reports to the Department of State
22 Police, the Department of Human Services, and the Inspector
23 General appointed under Section 1-17 of the Department of Human
24 Services Act. If the Department receives a report of suspected
25 abuse or neglect of a recipient of services as defined in
26 Section 1-123 of the Mental Health and Developmental

1 Disabilities Code, the Department shall transmit copies of such
2 report to the Inspector General and the Directors of the
3 Guardianship and Advocacy Commission and the agency designated
4 by the Governor pursuant to the Protection and Advocacy for
5 Developmentally Disabled Persons Act. When requested by the
6 Director of the Guardianship and Advocacy Commission, the
7 agency designated by the Governor pursuant to the Protection
8 and Advocacy for Developmentally Disabled Persons Act, or the
9 Department of Financial and Professional Regulation, the
10 Department, the Department of Human Services and the Department
11 of State Police shall make available a copy of the final
12 investigative report regarding investigations conducted by
13 their respective agencies on incidents of suspected abuse or
14 neglect of residents of mental health and developmental
15 disabilities institutions or individuals receiving services at
16 community agencies under the jurisdiction of the Department of
17 Human Services. Such final investigative report shall not
18 contain witness statements, investigation notes, draft
19 summaries, results of lie detector tests, investigative files
20 or other raw data which was used to compile the final
21 investigative report. Specifically, the final investigative
22 report of the Department of State Police shall mean the
23 Director's final transmittal letter. The Department of Human
24 Services shall also make available a copy of the results of
25 disciplinary proceedings of employees involved in incidents of
26 abuse or neglect to the Directors. All identifiable information

1 in reports provided shall not be further disclosed except as
2 provided by the Mental Health and Developmental Disabilities
3 Confidentiality Act. Nothing in this Section is intended to
4 limit or construe the power or authority granted to the agency
5 designated by the Governor pursuant to the Protection and
6 Advocacy for Developmentally Disabled Persons Act, pursuant to
7 any other State or federal statute.

8 With respect to investigations of reported resident abuse
9 or neglect, the Department shall effect with appropriate law
10 enforcement agencies formal agreements concerning methods and
11 procedures for the conduct of investigations into the criminal
12 histories of any administrator, staff assistant or employee of
13 the nursing home or other person responsible for the residents
14 care, as well as for other residents in the nursing home who
15 may be in a position to abuse, neglect or exploit the patient.
16 Pursuant to the formal agreements entered into with appropriate
17 law enforcement agencies, the Department may request
18 information with respect to whether the person or persons set
19 forth in this paragraph have ever been charged with a crime and
20 if so, the disposition of those charges. Unless the criminal
21 histories of the subjects involved crimes of violence or
22 resident abuse or neglect, the Department shall be entitled
23 only to information limited in scope to charges and their
24 dispositions. In cases where prior crimes of violence or
25 resident abuse or neglect are involved, a more detailed report
26 can be made available to authorized representatives of the

1 Department, pursuant to the agreements entered into with
2 appropriate law enforcement agencies. Any criminal charges and
3 their disposition information obtained by the Department shall
4 be confidential and may not be transmitted outside the
5 Department, except as required herein, to authorized
6 representatives or delegates of the Department, and may not be
7 transmitted to anyone within the Department who is not duly
8 authorized to handle resident abuse or neglect investigations.

9 The Department shall effect formal agreements with
10 appropriate law enforcement agencies in the various counties
11 and communities to encourage cooperation and coordination in
12 the handling of resident abuse or neglect cases pursuant to
13 this Act. The Department shall adopt and implement methods and
14 procedures to promote statewide uniformity in the handling of
15 reports of abuse and neglect under this Act, and those methods
16 and procedures shall be adhered to by personnel of the
17 Department involved in such investigations and reporting. The
18 Department shall also make information required by this Act
19 available to authorized personnel within the Department, as
20 well as its authorized representatives.

21 The Department shall keep a continuing record of all
22 reports made pursuant to this Act, including indications of the
23 final determination of any investigation and the final
24 disposition of all reports.

25 The Department shall report annually to the General
26 Assembly on the incidence of abuse and neglect of long term

1 care facility residents, with special attention to residents
2 who are mentally disabled. The report shall include but not be
3 limited to data on the number and source of reports of
4 suspected abuse or neglect filed under this Act, the nature of
5 any injuries to residents, the final determination of
6 investigations, the type and number of cases where abuse or
7 neglect is determined to exist, and the final disposition of
8 cases.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
10 eff. 7-13-12; 98-104, eff. 7-22-13.)

11 Section 100. The Nursing Home Care Act is amended by
12 changing Sections 1-113, 2-201.5, and 3-202.5 as follows:

13 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

14 Sec. 1-113. "Facility" or "long-term care facility" means a
15 private home, institution, building, residence, or any other
16 place, whether operated for profit or not, or a county home for
17 the infirm and chronically ill operated pursuant to Division
18 5-21 or 5-22 of the Counties Code, or any similar institution
19 operated by a political subdivision of the State of Illinois,
20 which provides, through its ownership or management, personal
21 care, sheltered care or nursing for 3 or more persons, not
22 related to the applicant or owner by blood or marriage. It
23 includes skilled nursing facilities and intermediate care
24 facilities as those terms are defined in Title XVIII and Title

1 XIX of the Federal Social Security Act. It also includes homes,
2 institutions, or other places operated by or under the
3 authority of the Illinois Department of Veterans' Affairs.

4 "Facility" does not include the following:

5 (1) A home, institution, or other place operated by the
6 federal government or agency thereof, or by the State of
7 Illinois, other than homes, institutions, or other places
8 operated by or under the authority of the Illinois
9 Department of Veterans' Affairs;

10 (2) A hospital, sanitarium, or other institution whose
11 principal activity or business is the diagnosis, care, and
12 treatment of human illness through the maintenance and
13 operation as organized facilities therefor, which is
14 required to be licensed under the Hospital Licensing Act;

15 (3) Any "facility for child care" as defined in the
16 Child Care Act of 1969;

17 (4) Any "Community Living Facility" as defined in the
18 Community Living Facilities Licensing Act;

19 (5) Any "community residential alternative" as defined
20 in the Community Residential Alternatives Licensing Act;

21 (6) Any nursing home or sanatorium operated solely by
22 and for persons who rely exclusively upon treatment by
23 spiritual means through prayer, in accordance with the
24 creed or tenets of any well-recognized church or religious
25 denomination. However, such nursing home or sanatorium
26 shall comply with all local laws and rules relating to

1 sanitation and safety;

2 (7) Any facility licensed by the Department of Human
3 Services as a community-integrated living arrangement as
4 defined in the Community-Integrated Living Arrangements
5 Licensure and Certification Act;

6 (8) Any "Supportive Residence" licensed under the
7 Supportive Residences Licensing Act;

8 (9) Any "supportive living facility" in good standing
9 with the program established under Section 5-5.01a of the
10 Illinois Public Aid Code, except only for purposes of the
11 employment of persons in accordance with Section 3-206.01;

12 (10) Any assisted living or shared housing
13 establishment licensed under the Assisted Living and
14 Shared Housing Act, except only for purposes of the
15 employment of persons in accordance with Section 3-206.01;

16 (11) An Alzheimer's disease management center
17 alternative health care model licensed under the
18 Alternative Health Care Delivery Act;

19 (12) A facility licensed under the ID/DD Community Care
20 Act; ~~or~~

21 (13) A facility licensed under the Specialized Mental
22 Health Rehabilitation Act of 2013; or ~~or~~

23 (14) A facility licensed under the MC/DD Act.

24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
25 eff. 7-13-12; 98-104, eff. 7-22-13.)

1 (210 ILCS 45/2-201.5)

2 Sec. 2-201.5. Screening prior to admission.

3 (a) All persons age 18 or older seeking admission to a
4 nursing facility must be screened to determine the need for
5 nursing facility services prior to being admitted, regardless
6 of income, assets, or funding source. Screening for nursing
7 facility services shall be administered through procedures
8 established by administrative rule. Screening may be done by
9 agencies other than the Department as established by
10 administrative rule. This Section applies on and after July 1,
11 1996. No later than October 1, 2010, the Department of
12 Healthcare and Family Services, in collaboration with the
13 Department on Aging, the Department of Human Services, and the
14 Department of Public Health, shall file administrative rules
15 providing for the gathering, during the screening process, of
16 information relevant to determining each person's potential
17 for placing other residents, employees, and visitors at risk of
18 harm.

19 (a-1) Any screening performed pursuant to subsection (a) of
20 this Section shall include a determination of whether any
21 person is being considered for admission to a nursing facility
22 due to a need for mental health services. For a person who
23 needs mental health services, the screening shall also include
24 an evaluation of whether there is permanent supportive housing,
25 or an array of community mental health services, including but
26 not limited to supported housing, assertive community

1 treatment, and peer support services, that would enable the
2 person to live in the community. The person shall be told about
3 the existence of any such services that would enable the person
4 to live safely and humanely and about available appropriate
5 nursing home services that would enable the person to live
6 safely and humanely, and the person shall be given the
7 assistance necessary to avail himself or herself of any
8 available services.

9 (a-2) Pre-screening for persons with a serious mental
10 illness shall be performed by a psychiatrist, a psychologist, a
11 registered nurse certified in psychiatric nursing, a licensed
12 clinical professional counselor, or a licensed clinical social
13 worker, who is competent to (i) perform a clinical assessment
14 of the individual, (ii) certify a diagnosis, (iii) make a
15 determination about the individual's current need for
16 treatment, including substance abuse treatment, and recommend
17 specific treatment, and (iv) determine whether a facility or a
18 community-based program is able to meet the needs of the
19 individual.

20 For any person entering a nursing facility, the
21 pre-screening agent shall make specific recommendations about
22 what care and services the individual needs to receive,
23 beginning at admission, to attain or maintain the individual's
24 highest level of independent functioning and to live in the
25 most integrated setting appropriate for his or her physical and
26 personal care and developmental and mental health needs. These

1 recommendations shall be revised as appropriate by the
2 pre-screening or re-screening agent based on the results of
3 resident review and in response to changes in the resident's
4 wishes, needs, and interest in transition.

5 Upon the person entering the nursing facility, the
6 Department of Human Services or its designee shall assist the
7 person in establishing a relationship with a community mental
8 health agency or other appropriate agencies in order to (i)
9 promote the person's transition to independent living and (ii)
10 support the person's progress in meeting individual goals.

11 (a-3) The Department of Human Services, by rule, shall
12 provide for a prohibition on conflicts of interest for
13 pre-admission screeners. The rule shall provide for waiver of
14 those conflicts by the Department of Human Services if the
15 Department of Human Services determines that a scarcity of
16 qualified pre-admission screeners exists in a given community
17 and that, absent a waiver of conflicts, an insufficient number
18 of pre-admission screeners would be available. If a conflict is
19 waived, the pre-admission screener shall disclose the conflict
20 of interest to the screened individual in the manner provided
21 for by rule of the Department of Human Services. For the
22 purposes of this subsection, a "conflict of interest" includes,
23 but is not limited to, the existence of a professional or
24 financial relationship between (i) a PAS-MH corporate or a
25 PAS-MH agent and (ii) a community provider or long-term care
26 facility.

1 (b) In addition to the screening required by subsection
2 (a), a facility, except for those licensed under the MC/DD Act
3 ~~as long term care for under age 22 facilities~~, shall, within 24
4 hours after admission, request a criminal history background
5 check pursuant to the Uniform Conviction Information Act for
6 all persons age 18 or older seeking admission to the facility,
7 unless a background check was initiated by a hospital pursuant
8 to subsection (d) of Section 6.09 of the Hospital Licensing
9 Act. Background checks conducted pursuant to this Section shall
10 be based on the resident's name, date of birth, and other
11 identifiers as required by the Department of State Police. If
12 the results of the background check are inconclusive, the
13 facility shall initiate a fingerprint-based check, unless the
14 fingerprint check is waived by the Director of Public Health
15 based on verification by the facility that the resident is
16 completely immobile or that the resident meets other criteria
17 related to the resident's health or lack of potential risk
18 which may be established by Departmental rule. A waiver issued
19 pursuant to this Section shall be valid only while the resident
20 is immobile or while the criteria supporting the waiver exist.
21 The facility shall provide for or arrange for any required
22 fingerprint-based checks to be taken on the premises of the
23 facility. If a fingerprint-based check is required, the
24 facility shall arrange for it to be conducted in a manner that
25 is respectful of the resident's dignity and that minimizes any
26 emotional or physical hardship to the resident.

1 (c) If the results of a resident's criminal history
2 background check reveal that the resident is an identified
3 offender as defined in Section 1-114.01, the facility shall do
4 the following:

5 (1) Immediately notify the Department of State Police,
6 in the form and manner required by the Department of State
7 Police, in collaboration with the Department of Public
8 Health, that the resident is an identified offender.

9 (2) Within 72 hours, arrange for a fingerprint-based
10 criminal history record inquiry to be requested on the
11 identified offender resident. The inquiry shall be based on
12 the subject's name, sex, race, date of birth, fingerprint
13 images, and other identifiers required by the Department of
14 State Police. The inquiry shall be processed through the
15 files of the Department of State Police and the Federal
16 Bureau of Investigation to locate any criminal history
17 record information that may exist regarding the subject.
18 The Federal Bureau of Investigation shall furnish to the
19 Department of State Police, pursuant to an inquiry under
20 this paragraph (2), any criminal history record
21 information contained in its files.

22 The facility shall comply with all applicable provisions
23 contained in the Uniform Conviction Information Act.

24 All name-based and fingerprint-based criminal history
25 record inquiries shall be submitted to the Department of State
26 Police electronically in the form and manner prescribed by the

1 Department of State Police. The Department of State Police may
2 charge the facility a fee for processing name-based and
3 fingerprint-based criminal history record inquiries. The fee
4 shall be deposited into the State Police Services Fund. The fee
5 shall not exceed the actual cost of processing the inquiry.

6 (d) (Blank).

7 (e) The Department shall develop and maintain a
8 de-identified database of residents who have injured facility
9 staff, facility visitors, or other residents, and the attendant
10 circumstances, solely for the purposes of evaluating and
11 improving resident pre-screening and assessment procedures
12 (including the Criminal History Report prepared under Section
13 2-201.6) and the adequacy of Department requirements
14 concerning the provision of care and services to residents. A
15 resident shall not be listed in the database until a Department
16 survey confirms the accuracy of the listing. The names of
17 persons listed in the database and information that would allow
18 them to be individually identified shall not be made public.
19 Neither the Department nor any other agency of State government
20 may use information in the database to take any action against
21 any individual, licensee, or other entity, unless the
22 Department or agency receives the information independent of
23 this subsection (e). All information collected, maintained, or
24 developed under the authority of this subsection (e) for the
25 purposes of the database maintained under this subsection (e)
26 shall be treated in the same manner as information that is

1 subject to Part 21 of Article VIII of the Code of Civil
2 Procedure.

3 (Source: P.A. 96-1372, eff. 7-29-10; 97-48, eff. 6-28-11.)

4 (210 ILCS 45/3-202.5)

5 Sec. 3-202.5. Facility plan review; fees.

6 (a) Before commencing construction of a new facility or
7 specified types of alteration or additions to an existing long
8 term care facility involving major construction, as defined by
9 rule by the Department, with an estimated cost greater than
10 \$100,000, architectural drawings and specifications for the
11 facility shall be submitted to the Department for review and
12 approval. A facility may submit architectural drawings and
13 specifications for other construction projects for Department
14 review according to subsection (b) that shall not be subject to
15 fees under subsection (d). Review of drawings and
16 specifications shall be conducted by an employee of the
17 Department meeting the qualifications established by the
18 Department of Central Management Services class specifications
19 for such an individual's position or by a person contracting
20 with the Department who meets those class specifications. Final
21 approval of the drawings and specifications for compliance with
22 design and construction standards shall be obtained from the
23 Department before the alteration, addition, or new
24 construction is begun.

25 (b) The Department shall inform an applicant in writing

1 within 10 working days after receiving drawings and
2 specifications and the required fee, if any, from the applicant
3 whether the applicant's submission is complete or incomplete.
4 Failure to provide the applicant with this notice within 10
5 working days shall result in the submission being deemed
6 complete for purposes of initiating the 60-day review period
7 under this Section. If the submission is incomplete, the
8 Department shall inform the applicant of the deficiencies with
9 the submission in writing. If the submission is complete the
10 required fee, if any, has been paid, the Department shall
11 approve or disapprove drawings and specifications submitted to
12 the Department no later than 60 days following receipt by the
13 Department. The drawings and specifications shall be of
14 sufficient detail, as provided by Department rule, to enable
15 the Department to render a determination of compliance with
16 design and construction standards under this Act. If the
17 Department finds that the drawings are not of sufficient detail
18 for it to render a determination of compliance, the plans shall
19 be determined to be incomplete and shall not be considered for
20 purposes of initiating the 60 day review period. If a
21 submission of drawings and specifications is incomplete, the
22 applicant may submit additional information. The 60-day review
23 period shall not commence until the Department determines that
24 a submission of drawings and specifications is complete or the
25 submission is deemed complete. If the Department has not
26 approved or disapproved the drawings and specifications within

1 60 days, the construction, major alteration, or addition shall
2 be deemed approved. If the drawings and specifications are
3 disapproved, the Department shall state in writing, with
4 specificity, the reasons for the disapproval. The entity
5 submitting the drawings and specifications may submit
6 additional information in response to the written comments from
7 the Department or request a reconsideration of the disapproval.
8 A final decision of approval or disapproval shall be made
9 within 45 days of the receipt of the additional information or
10 reconsideration request. If denied, the Department shall state
11 the specific reasons for the denial.

12 (c) The Department shall provide written approval for
13 occupancy pursuant to subsection (g) and shall not issue a
14 violation to a facility as a result of a licensure or complaint
15 survey based upon the facility's physical structure if:

16 (1) the Department reviewed and approved or deemed
17 approved the drawings and specifications for compliance
18 with design and construction standards;

19 (2) the construction, major alteration, or addition
20 was built as submitted;

21 (3) the law or rules have not been amended since the
22 original approval; and

23 (4) the conditions at the facility indicate that there
24 is a reasonable degree of safety provided for the
25 residents.

26 (d) The Department shall charge the following fees in

1 connection with its reviews conducted before June 30, 2004
2 under this Section:

3 (1) (Blank).

4 (2) (Blank).

5 (3) If the estimated dollar value of the alteration,
6 addition, or new construction is \$100,000 or more but less
7 than \$500,000, the fee shall be the greater of \$2,400 or
8 1.2% of that value.

9 (4) If the estimated dollar value of the alteration,
10 addition, or new construction is \$500,000 or more but less
11 than \$1,000,000, the fee shall be the greater of \$6,000 or
12 0.96% of that value.

13 (5) If the estimated dollar value of the alteration,
14 addition, or new construction is \$1,000,000 or more but
15 less than \$5,000,000, the fee shall be the greater of
16 \$9,600 or 0.22% of that value.

17 (6) If the estimated dollar value of the alteration,
18 addition, or new construction is \$5,000,000 or more, the
19 fee shall be the greater of \$11,000 or 0.11% of that value,
20 but shall not exceed \$40,000.

21 The fees provided in this subsection (d) shall not apply to
22 major construction projects involving facility changes that
23 are required by Department rule amendments.

24 The fees provided in this subsection (d) shall also not
25 apply to major construction projects if 51% or more of the
26 estimated cost of the project is attributed to capital

1 equipment. For major construction projects where 51% or more of
2 the estimated cost of the project is attributed to capital
3 equipment, the Department shall by rule establish a fee that is
4 reasonably related to the cost of reviewing the project.

5 The Department shall not commence the facility plan review
6 process under this Section until the applicable fee has been
7 paid.

8 (e) All fees received by the Department under this Section
9 shall be deposited into the Health Facility Plan Review Fund, a
10 special fund created in the State Treasury. All fees paid by
11 long-term care facilities under subsection (d) shall be used
12 only to cover the costs relating to the Department's review of
13 long-term care facility projects under this Section. Moneys
14 shall be appropriated from that Fund to the Department only to
15 pay the costs of conducting reviews under this Section or under
16 Section 3-202.5 of the ID/DD Community Care Act or Section
17 3-202.5 of the MC/DD Act. None of the moneys in the Health
18 Facility Plan Review Fund shall be used to reduce the amount of
19 General Revenue Fund moneys appropriated to the Department for
20 facility plan reviews conducted pursuant to this Section.

21 (f) (1) The provisions of this amendatory Act of 1997
22 concerning drawings and specifications shall apply only to
23 drawings and specifications submitted to the Department on or
24 after October 1, 1997.

25 (2) On and after the effective date of this amendatory Act
26 of 1997 and before October 1, 1997, an applicant may submit or

1 resubmit drawings and specifications to the Department and pay
2 the fees provided in subsection (d). If an applicant pays the
3 fees provided in subsection (d) under this paragraph (2), the
4 provisions of subsection (b) shall apply with regard to those
5 drawings and specifications.

6 (g) The Department shall conduct an on-site inspection of
7 the completed project no later than 30 days after notification
8 from the applicant that the project has been completed and all
9 certifications required by the Department have been received
10 and accepted by the Department. The Department shall provide
11 written approval for occupancy to the applicant within 5
12 working days of the Department's final inspection, provided the
13 applicant has demonstrated substantial compliance as defined
14 by Department rule. Occupancy of new major construction is
15 prohibited until Department approval is received, unless the
16 Department has not acted within the time frames provided in
17 this subsection (g), in which case the construction shall be
18 deemed approved. Occupancy shall be authorized after any
19 required health inspection by the Department has been
20 conducted.

21 (h) The Department shall establish, by rule, a procedure to
22 conduct interim on-site review of large or complex construction
23 projects.

24 (i) The Department shall establish, by rule, an expedited
25 process for emergency repairs or replacement of like equipment.

26 (j) Nothing in this Section shall be construed to apply to

1 maintenance, upkeep, or renovation that does not affect the
2 structural integrity of the building, does not add beds or
3 services over the number for which the long-term care facility
4 is licensed, and provides a reasonable degree of safety for the
5 residents.

6 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
7 eff. 7-13-12; 98-104, eff. 7-22-13.)

8 Section 105. The ID/DD Community Care Act is amended by
9 changing Sections 1-101.05 and 1-113 as follows:

10 (210 ILCS 47/1-101.05)

11 Sec. 1-101.05. Prior law.

12 (a) This Act provides for licensure of intermediate care
13 facilities for the developmentally disabled ~~and long-term care~~
14 ~~for under age 22 facilities~~ under this Act instead of under the
15 Nursing Home Care Act. On and after the effective date of this
16 Act, those facilities shall be governed by this Act instead of
17 the Nursing Home Care Act.

18 On and after the effective date of this amendatory Act of
19 the 99th General Assembly, long-term care for under age 22
20 facilities shall be known as medically complex for the
21 developmentally disabled facilities and governed by the MC/DD
22 Act instead of this Act.

23 (b) If any other Act of the General Assembly changes, adds,
24 or repeals a provision of the Nursing Home Care Act that is the

1 same as or substantially similar to a provision of this Act,
2 then that change, addition, or repeal in the Nursing Home Care
3 Act shall be construed together with this Act until July 1,
4 2010 and not thereafter.

5 (c) Nothing in this Act affects the validity or effect of
6 any finding, decision, or action made or taken by the
7 Department or the Director under the Nursing Home Care Act
8 before the effective date of this Act with respect to a
9 facility subject to licensure under this Act. That finding,
10 decision, or action shall continue to apply to the facility on
11 and after the effective date of this Act. Any finding,
12 decision, or action with respect to the facility made or taken
13 on or after the effective date of this Act shall be made or
14 taken as provided in this Act.

15 (Source: P.A. 96-339, eff. 7-1-10; 96-1187, eff. 7-22-10.)

16 (210 ILCS 47/1-113)

17 Sec. 1-113. Facility. "ID/DD facility" or "facility" means
18 an intermediate care facility for the developmentally disabled
19 ~~or a long-term care for under age 22 facility~~, whether operated
20 for profit or not, which provides, through its ownership or
21 management, personal care or nursing for 3 or more persons not
22 related to the applicant or owner by blood or marriage. It
23 includes intermediate care facilities for the intellectually
24 disabled as the term is defined in Title XVIII and Title XIX of
25 the federal Social Security Act.

1 "Facility" does not include the following:

2 (1) A home, institution, or other place operated by the
3 federal government or agency thereof, or by the State of
4 Illinois, other than homes, institutions, or other places
5 operated by or under the authority of the Illinois
6 Department of Veterans' Affairs;

7 (2) A hospital, sanitarium, or other institution whose
8 principal activity or business is the diagnosis, care, and
9 treatment of human illness through the maintenance and
10 operation as organized facilities therefore, which is
11 required to be licensed under the Hospital Licensing Act;

12 (3) Any "facility for child care" as defined in the
13 Child Care Act of 1969;

14 (4) Any "community living facility" as defined in the
15 Community Living Facilities Licensing Act;

16 (5) Any "community residential alternative" as defined
17 in the Community Residential Alternatives Licensing Act;

18 (6) Any nursing home or sanatorium operated solely by
19 and for persons who rely exclusively upon treatment by
20 spiritual means through prayer, in accordance with the
21 creed or tenets of any well recognized church or religious
22 denomination. However, such nursing home or sanatorium
23 shall comply with all local laws and rules relating to
24 sanitation and safety;

25 (7) Any facility licensed by the Department of Human
26 Services as a community-integrated living arrangement as

1 defined in the Community-Integrated Living Arrangements
2 Licensure and Certification Act;

3 (8) Any "supportive residence" licensed under the
4 Supportive Residences Licensing Act;

5 (9) Any "supportive living facility" in good standing
6 with the program established under Section 5-5.01a of the
7 Illinois Public Aid Code, except only for purposes of the
8 employment of persons in accordance with Section 3-206.01;

9 (10) Any assisted living or shared housing
10 establishment licensed under the Assisted Living and
11 Shared Housing Act, except only for purposes of the
12 employment of persons in accordance with Section 3-206.01;

13 (11) An Alzheimer's disease management center
14 alternative health care model licensed under the
15 Alternative Health Care Delivery Act; ~~or~~

16 (12) A home, institution, or other place operated by or
17 under the authority of the Illinois Department of Veterans'
18 Affairs; or ~~or~~

19 (13) Any MC/DD facility licensed under the MC/DD Act.

20 (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10;
21 97-227, eff. 1-1-12.)

22 (210 ILCS 47/2-218 rep.)

23 Section 110. The ID/DD Community Care Act is amended by
24 repealing Section 2-218.

1 Section 115. The Specialized Mental Health Rehabilitation
2 Act of 2013 is amended by changing Section 1-102 as follows:

3 (210 ILCS 49/1-102)

4 Sec. 1-102. Definitions. For the purposes of this Act,
5 unless the context otherwise requires:

6 "Abuse" means any physical or mental injury or sexual
7 assault inflicted on a consumer other than by accidental means
8 in a facility.

9 "Accreditation" means any of the following:

10 (1) the Joint Commission;

11 (2) the Commission on Accreditation of Rehabilitation
12 Facilities;

13 (3) the Healthcare Facilities Accreditation Program;

14 or

15 (4) any other national standards of care as approved by
16 the Department.

17 "Applicant" means any person making application for a
18 license or a provisional license under this Act.

19 "Consumer" means a person, 18 years of age or older,
20 admitted to a mental health rehabilitation facility for
21 evaluation, observation, diagnosis, treatment, stabilization,
22 recovery, and rehabilitation.

23 "Consumer" does not mean any of the following:

24 (i) an individual requiring a locked setting;

25 (ii) an individual requiring psychiatric

- 1 hospitalization because of an acute psychiatric crisis;
- 2 (iii) an individual under 18 years of age;
- 3 (iv) an individual who is actively suicidal or violent
4 toward others;
- 5 (v) an individual who has been found unfit to stand
6 trial;
- 7 (vi) an individual who has been found not guilty by
8 reason of insanity based on committing a violent act, such
9 as sexual assault, assault with a deadly weapon, arson, or
10 murder;
- 11 (vii) an individual subject to temporary detention and
12 examination under Section 3-607 of the Mental Health and
13 Developmental Disabilities Code;
- 14 (viii) an individual deemed clinically appropriate for
15 inpatient admission in a State psychiatric hospital; and
- 16 (ix) an individual transferred by the Department of
17 Corrections pursuant to Section 3-8-5 of the Unified Code
18 of Corrections.

19 "Consumer record" means a record that organizes all
20 information on the care, treatment, and rehabilitation
21 services rendered to a consumer in a specialized mental health
22 rehabilitation facility.

23 "Controlled drugs" means those drugs covered under the
24 federal Comprehensive Drug Abuse Prevention Control Act of
25 1970, as amended, or the Illinois Controlled Substances Act.

26 "Department" means the Department of Public Health.

1 "Discharge" means the full release of any consumer from a
2 facility.

3 "Drug administration" means the act in which a single dose
4 of a prescribed drug or biological is given to a consumer. The
5 complete act of administration entails removing an individual
6 dose from a container, verifying the dose with the prescriber's
7 orders, giving the individual dose to the consumer, and
8 promptly recording the time and dose given.

9 "Drug dispensing" means the act entailing the following of
10 a prescription order for a drug or biological and proper
11 selection, measuring, packaging, labeling, and issuance of the
12 drug or biological to a consumer.

13 "Emergency" means a situation, physical condition, or one
14 or more practices, methods, or operations which present
15 imminent danger of death or serious physical or mental harm to
16 consumers of a facility.

17 "Facility" means a specialized mental health
18 rehabilitation facility that provides at least one of the
19 following services: (1) triage center; (2) crisis
20 stabilization; (3) recovery and rehabilitation supports; or
21 (4) transitional living units for 3 or more persons. The
22 facility shall provide a 24-hour program that provides
23 intensive support and recovery services designed to assist
24 persons, 18 years or older, with mental disorders to develop
25 the skills to become self-sufficient and capable of increasing
26 levels of independent functioning. It includes facilities that

1 meet the following criteria:

2 (1) 100% of the consumer population of the facility has
3 a diagnosis of serious mental illness;

4 (2) no more than 15% of the consumer population of the
5 facility is 65 years of age or older;

6 (3) none of the consumers are non-ambulatory;

7 (4) none of the consumers have a primary diagnosis of
8 moderate, severe, or profound intellectual disability; and

9 (5) the facility must have been licensed under the
10 Specialized Mental Health Rehabilitation Act or the
11 Nursing Home Care Act immediately preceding the effective
12 date of this Act and qualifies as a institute for mental
13 disease under the federal definition of the term.

14 "Facility" does not include the following:

15 (1) a home, institution, or place operated by the
16 federal government or agency thereof, or by the State of
17 Illinois;

18 (2) a hospital, sanitarium, or other institution whose
19 principal activity or business is the diagnosis, care, and
20 treatment of human illness through the maintenance and
21 operation as organized facilities therefor which is
22 required to be licensed under the Hospital Licensing Act;

23 (3) a facility for child care as defined in the Child
24 Care Act of 1969;

25 (4) a community living facility as defined in the
26 Community Living Facilities Licensing Act;

1 (5) a nursing home or sanatorium operated solely by and
2 for persons who rely exclusively upon treatment by
3 spiritual means through prayer, in accordance with the
4 creed or tenets of any well-recognized church or religious
5 denomination; however, such nursing home or sanatorium
6 shall comply with all local laws and rules relating to
7 sanitation and safety;

8 (6) a facility licensed by the Department of Human
9 Services as a community-integrated living arrangement as
10 defined in the Community-Integrated Living Arrangements
11 Licensure and Certification Act;

12 (7) a supportive residence licensed under the
13 Supportive Residences Licensing Act;

14 (8) a supportive living facility in good standing with
15 the program established under Section 5-5.01a of the
16 Illinois Public Aid Code, except only for purposes of the
17 employment of persons in accordance with Section 3-206.01
18 of the Nursing Home Care Act;

19 (9) an assisted living or shared housing establishment
20 licensed under the Assisted Living and Shared Housing Act,
21 except only for purposes of the employment of persons in
22 accordance with Section 3-206.01 of the Nursing Home Care
23 Act;

24 (10) an Alzheimer's disease management center
25 alternative health care model licensed under the
26 Alternative Health Care Delivery Act;

1 (11) a home, institution, or other place operated by or
2 under the authority of the Illinois Department of Veterans'
3 Affairs;

4 (12) a facility licensed under the ID/DD Community Care
5 Act; ~~or~~

6 (13) a facility licensed under the Nursing Home Care
7 Act after the effective date of this Act; or ~~-~~

8 (14) a facility licensed under the MC/DD Act.

9 "Executive director" means a person who is charged with the
10 general administration and supervision of a facility licensed
11 under this Act.

12 "Guardian" means a person appointed as a guardian of the
13 person or guardian of the estate, or both, of a consumer under
14 the Probate Act of 1975.

15 "Identified offender" means a person who meets any of the
16 following criteria:

17 (1) Has been convicted of, found guilty of, adjudicated
18 delinquent for, found not guilty by reason of insanity for,
19 or found unfit to stand trial for, any felony offense
20 listed in Section 25 of the Health Care Worker Background
21 Check Act, except for the following:

22 (i) a felony offense described in Section 10-5 of
23 the Nurse Practice Act;

24 (ii) a felony offense described in Section 4, 5, 6,
25 8, or 17.02 of the Illinois Credit Card and Debit Card
26 Act;

1 (iii) a felony offense described in Section 5, 5.1,
2 5.2, 7, or 9 of the Cannabis Control Act;

3 (iv) a felony offense described in Section 401,
4 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
5 Controlled Substances Act; and

6 (v) a felony offense described in the
7 Methamphetamine Control and Community Protection Act.

8 (2) Has been convicted of, adjudicated delinquent for,
9 found not guilty by reason of insanity for, or found unfit
10 to stand trial for, any sex offense as defined in
11 subsection (c) of Section 10 of the Sex Offender Management
12 Board Act.

13 "Transitional living units" are residential units within a
14 facility that have the purpose of assisting the consumer in
15 developing and reinforcing the necessary skills to live
16 independently outside of the facility. The duration of stay in
17 such a setting shall not exceed 120 days for each consumer.
18 Nothing in this definition shall be construed to be a
19 prerequisite for transitioning out of a facility.

20 "Licensee" means the person, persons, firm, partnership,
21 association, organization, company, corporation, or business
22 trust to which a license has been issued.

23 "Misappropriation of a consumer's property" means the
24 deliberate misplacement, exploitation, or wrongful temporary
25 or permanent use of a consumer's belongings or money without
26 the consent of a consumer or his or her guardian.

1 "Neglect" means a facility's failure to provide, or willful
2 withholding of, adequate medical care, mental health
3 treatment, psychiatric rehabilitation, personal care, or
4 assistance that is necessary to avoid physical harm and mental
5 anguish of a consumer.

6 "Personal care" means assistance with meals, dressing,
7 movement, bathing, or other personal needs, maintenance, or
8 general supervision and oversight of the physical and mental
9 well-being of an individual who is incapable of maintaining a
10 private, independent residence or who is incapable of managing
11 his or her person, whether or not a guardian has been appointed
12 for such individual. "Personal care" shall not be construed to
13 confine or otherwise constrain a facility's pursuit to develop
14 the skills and abilities of a consumer to become
15 self-sufficient and capable of increasing levels of
16 independent functioning.

17 "Recovery and rehabilitation supports" means a program
18 that facilitates a consumer's longer-term symptom management
19 and stabilization while preparing the consumer for
20 transitional living units by improving living skills and
21 community socialization. The duration of stay in such a setting
22 shall be established by the Department by rule.

23 "Restraint" means:

24 (i) a physical restraint that is any manual method or
25 physical or mechanical device, material, or equipment
26 attached or adjacent to a consumer's body that the consumer

1 cannot remove easily and restricts freedom of movement or
2 normal access to one's body; devices used for positioning,
3 including, but not limited to, bed rails, gait belts, and
4 cushions, shall not be considered to be restraints for
5 purposes of this Section; or

6 (ii) a chemical restraint that is any drug used for
7 discipline or convenience and not required to treat medical
8 symptoms; the Department shall, by rule, designate certain
9 devices as restraints, including at least all those devices
10 that have been determined to be restraints by the United
11 States Department of Health and Human Services in
12 interpretive guidelines issued for the purposes of
13 administering Titles XVIII and XIX of the federal Social
14 Security Act. For the purposes of this Act, restraint shall
15 be administered only after utilizing a coercive free
16 environment and culture.

17 "Self-administration of medication" means consumers shall
18 be responsible for the control, management, and use of their
19 own medication.

20 "Crisis stabilization" means a secure and separate unit
21 that provides short-term behavioral, emotional, or psychiatric
22 crisis stabilization as an alternative to hospitalization or
23 re-hospitalization for consumers from residential or community
24 placement. The duration of stay in such a setting shall not
25 exceed 21 days for each consumer.

26 "Therapeutic separation" means the removal of a consumer

1 from the milieu to a room or area which is designed to aid in
2 the emotional or psychiatric stabilization of that consumer.

3 "Triage center" means a non-residential 23-hour center
4 that serves as an alternative to emergency room care,
5 hospitalization, or re-hospitalization for consumers in need
6 of short-term crisis stabilization. Consumers may access a
7 triage center from a number of referral sources, including
8 family, emergency rooms, hospitals, community behavioral
9 health providers, federally qualified health providers, or
10 schools, including colleges or universities. A triage center
11 may be located in a building separate from the licensed
12 location of a facility, but shall not be more than 1,000 feet
13 from the licensed location of the facility and must meet all of
14 the facility standards applicable to the licensed location. If
15 the triage center does operate in a separate building, safety
16 personnel shall be provided, on site, 24 hours per day and the
17 triage center shall meet all other staffing requirements
18 without counting any staff employed in the main facility
19 building.

20 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14.)

21 Section 120. The Home Health, Home Services, and Home
22 Nursing Agency Licensing Act is amended by changing Section
23 2.08 as follows:

24 (210 ILCS 55/2.08)

1 Sec. 2.08. "Home services agency" means an agency that
2 provides services directly, or acts as a placement agency, for
3 the purpose of placing individuals as workers providing home
4 services for consumers in their personal residences. "Home
5 services agency" does not include agencies licensed under the
6 Nurse Agency Licensing Act, the Hospital Licensing Act, the
7 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD
8 Act, the Specialized Mental Health Rehabilitation Act of 2013,
9 or the Assisted Living and Shared Housing Act and does not
10 include an agency that limits its business exclusively to
11 providing housecleaning services. Programs providing services
12 exclusively through the Community Care Program of the Illinois
13 Department on Aging, the Department of Human Services Office of
14 Rehabilitation Services, or the United States Department of
15 Veterans Affairs are not considered to be a home services
16 agency under this Act.

17 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
18 eff. 7-13-12; 98-104, eff. 7-22-13.)

19 Section 125. The Hospice Program Licensing Act is amended
20 by changing Sections 3 and 4 as follows:

21 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

22 Sec. 3. Definitions. As used in this Act, unless the
23 context otherwise requires:

24 (a) "Bereavement" means the period of time during which the

1 hospice patient's family experiences and adjusts to the death
2 of the hospice patient.

3 (a-5) "Bereavement services" means counseling services
4 provided to an individual's family after the individual's
5 death.

6 (a-10) "Attending physician" means a physician who:

7 (1) is a doctor of medicine or osteopathy; and

8 (2) is identified by an individual, at the time the
9 individual elects to receive hospice care, as having the
10 most significant role in the determination and delivery of
11 the individual's medical care.

12 (b) "Department" means the Illinois Department of Public
13 Health.

14 (c) "Director" means the Director of the Illinois
15 Department of Public Health.

16 (d) "Hospice care" means a program of palliative care that
17 provides for the physical, emotional, and spiritual care needs
18 of a terminally ill patient and his or her family. The goal of
19 such care is to achieve the highest quality of life as defined
20 by the patient and his or her family through the relief of
21 suffering and control of symptoms.

22 (e) "Hospice care team" means an interdisciplinary group or
23 groups composed of individuals who provide or supervise the
24 care and services offered by the hospice.

25 (f) "Hospice patient" means a terminally ill person
26 receiving hospice services.

1 (g) "Hospice patient's family" means a hospice patient's
2 immediate family consisting of a spouse, sibling, child, parent
3 and those individuals designated as such by the patient for the
4 purposes of this Act.

5 (g-1) "Hospice residence" means a separately licensed
6 home, apartment building, or similar building providing living
7 quarters:

8 (1) that is owned or operated by a person licensed to
9 operate as a comprehensive hospice; and

10 (2) at which hospice services are provided to facility
11 residents.

12 A building that is licensed under the Hospital Licensing
13 Act, the Nursing Home Care Act, the Specialized Mental Health
14 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
15 the MC/DD Act is not a hospice residence.

16 (h) "Hospice services" means a range of professional and
17 other supportive services provided to a hospice patient and his
18 or her family. These services may include, but are not limited
19 to, physician services, nursing services, medical social work
20 services, spiritual counseling services, bereavement services,
21 and volunteer services.

22 (h-5) "Hospice program" means a licensed public agency or
23 private organization, or a subdivision of either of those, that
24 is primarily engaged in providing care to terminally ill
25 individuals through a program of home care or inpatient care,
26 or both home care and inpatient care, utilizing a medically

1 directed interdisciplinary hospice care team of professionals
2 or volunteers, or both professionals and volunteers. A hospice
3 program may be licensed as a comprehensive hospice program or a
4 volunteer hospice program.

5 (h-10) "Comprehensive hospice" means a program that
6 provides hospice services and meets the minimum standards for
7 certification under the Medicare program set forth in the
8 Conditions of Participation in 42 CFR Part 418 but is not
9 required to be Medicare-certified.

10 (i) "Palliative care" means the management of pain and
11 other distressing symptoms that incorporates medical, nursing,
12 psychosocial, and spiritual care according to the needs,
13 values, beliefs, and culture or cultures of the patient and his
14 or her family. The evaluation and treatment is
15 patient-centered, with a focus on the central role of the
16 family unit in decision-making.

17 (j) "Hospice service plan" means a plan detailing the
18 specific hospice services offered by a comprehensive or
19 volunteer hospice program, and the administrative and direct
20 care personnel responsible for those services. The plan shall
21 include but not be limited to:

22 (1) Identification of the person or persons
23 administratively responsible for the program.

24 (2) The estimated average monthly patient census.

25 (3) The proposed geographic area the hospice will
26 serve.

1 (4) A listing of those hospice services provided
2 directly by the hospice, and those hospice services
3 provided indirectly through a contractual agreement.

4 (5) The name and qualifications of those persons or
5 entities under contract to provide indirect hospice
6 services.

7 (6) The name and qualifications of those persons
8 providing direct hospice services, with the exception of
9 volunteers.

10 (7) A description of how the hospice plans to utilize
11 volunteers in the provision of hospice services.

12 (8) A description of the program's record keeping
13 system.

14 (k) "Terminally ill" means a medical prognosis by a
15 physician licensed to practice medicine in all of its branches
16 that a patient has an anticipated life expectancy of one year
17 or less.

18 (1) "Volunteer" means a person who offers his or her
19 services to a hospice without compensation. Reimbursement for a
20 volunteer's expenses in providing hospice service shall not be
21 considered compensation.

22 (1-5) "Employee" means a paid or unpaid member of the staff
23 of a hospice program, or, if the hospice program is a
24 subdivision of an agency or organization, of the agency or
25 organization, who is appropriately trained and assigned to the
26 hospice program. "Employee" also means a volunteer whose duties

1 are prescribed by the hospice program and whose performance of
2 those duties is supervised by the hospice program.

3 (1-10) "Representative" means an individual who has been
4 authorized under State law to terminate an individual's medical
5 care or to elect or revoke the election of hospice care on
6 behalf of a terminally ill individual who is mentally or
7 physically incapacitated.

8 (m) "Volunteer hospice" means a program which provides
9 hospice services to patients regardless of their ability to
10 pay, with emphasis on the utilization of volunteers to provide
11 services, under the administration of a not-for-profit agency.
12 This definition does not prohibit the employment of staff.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
14 eff. 7-13-12; 98-104, eff. 7-22-13.)

15 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

16 Sec. 4. License.

17 (a) No person shall establish, conduct or maintain a
18 comprehensive or volunteer hospice program without first
19 obtaining a license from the Department. A hospice residence
20 may be operated only at the locations listed on the license. A
21 comprehensive hospice program owning or operating a hospice
22 residence is not subject to the provisions of the Nursing Home
23 Care Act, the Specialized Mental Health Rehabilitation Act of
24 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act in
25 owning or operating a hospice residence.

1 (b) No public or private agency shall advertise or present
2 itself to the public as a comprehensive or volunteer hospice
3 program which provides hospice services without meeting the
4 provisions of subsection (a).

5 (c) The license shall be valid only in the possession of
6 the hospice to which it was originally issued and shall not be
7 transferred or assigned to any other person, agency, or
8 corporation.

9 (d) The license shall be renewed annually.

10 (e) The license shall be displayed in a conspicuous place
11 inside the hospice program office.

12 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
13 eff. 7-13-12; 98-104, eff. 7-22-13.)

14 Section 130. The Hospital Licensing Act is amended by
15 changing Sections 3, 6.09, 6.09a, and 7 as follows:

16 (210 ILCS 85/3)

17 Sec. 3. As used in this Act:

18 (A) "Hospital" means any institution, place, building,
19 buildings on a campus, or agency, public or private, whether
20 organized for profit or not, devoted primarily to the
21 maintenance and operation of facilities for the diagnosis and
22 treatment or care of 2 or more unrelated persons admitted for
23 overnight stay or longer in order to obtain medical, including
24 obstetric, psychiatric and nursing, care of illness, disease,

1 injury, infirmity, or deformity.

2 The term "hospital", without regard to length of stay,
3 shall also include:

4 (a) any facility which is devoted primarily to
5 providing psychiatric and related services and programs
6 for the diagnosis and treatment or care of 2 or more
7 unrelated persons suffering from emotional or nervous
8 diseases;

9 (b) all places where pregnant females are received,
10 cared for, or treated during delivery irrespective of the
11 number of patients received.

12 The term "hospital" includes general and specialized
13 hospitals, tuberculosis sanitarium, mental or psychiatric
14 hospitals and sanitarium, and includes maternity homes,
15 lying-in homes, and homes for unwed mothers in which care is
16 given during delivery.

17 The term "hospital" does not include:

18 (1) any person or institution required to be licensed
19 pursuant to the Nursing Home Care Act, the Specialized
20 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
21 Community Care Act, or the MC/DD Act;

22 (2) hospitalization or care facilities maintained by
23 the State or any department or agency thereof, where such
24 department or agency has authority under law to establish
25 and enforce standards for the hospitalization or care
26 facilities under its management and control;

1 (3) hospitalization or care facilities maintained by
2 the federal government or agencies thereof;

3 (4) hospitalization or care facilities maintained by
4 any university or college established under the laws of
5 this State and supported principally by public funds raised
6 by taxation;

7 (5) any person or facility required to be licensed
8 pursuant to the Alcoholism and Other Drug Abuse and
9 Dependency Act;

10 (6) any facility operated solely by and for persons who
11 rely exclusively upon treatment by spiritual means through
12 prayer, in accordance with the creed or tenets of any
13 well-recognized church or religious denomination;

14 (7) an Alzheimer's disease management center
15 alternative health care model licensed under the
16 Alternative Health Care Delivery Act; or

17 (8) any veterinary hospital or clinic operated by a
18 veterinarian or veterinarians licensed under the
19 Veterinary Medicine and Surgery Practice Act of 2004 or
20 maintained by a State-supported or publicly funded
21 university or college.

22 (B) "Person" means the State, and any political subdivision
23 or municipal corporation, individual, firm, partnership,
24 corporation, company, association, or joint stock association,
25 or the legal successor thereof.

26 (C) "Department" means the Department of Public Health of

1 the State of Illinois.

2 (D) "Director" means the Director of Public Health of the
3 State of Illinois.

4 (E) "Perinatal" means the period of time between the
5 conception of an infant and the end of the first month after
6 birth.

7 (F) "Federally designated organ procurement agency" means
8 the organ procurement agency designated by the Secretary of the
9 U.S. Department of Health and Human Services for the service
10 area in which a hospital is located; except that in the case of
11 a hospital located in a county adjacent to Wisconsin which
12 currently contracts with an organ procurement agency located in
13 Wisconsin that is not the organ procurement agency designated
14 by the U.S. Secretary of Health and Human Services for the
15 service area in which the hospital is located, if the hospital
16 applies for a waiver pursuant to 42 USC 1320b-8(a), it may
17 designate an organ procurement agency located in Wisconsin to
18 be thereafter deemed its federally designated organ
19 procurement agency for the purposes of this Act.

20 (G) "Tissue bank" means any facility or program operating
21 in Illinois that is certified by the American Association of
22 Tissue Banks or the Eye Bank Association of America and is
23 involved in procuring, furnishing, donating, or distributing
24 corneas, bones, or other human tissue for the purpose of
25 injecting, transfusing, or transplanting any of them into the
26 human body. "Tissue bank" does not include a licensed blood

1 bank. For the purposes of this Act, "tissue" does not include
2 organs.

3 (H) "Campus", as this terms applies to operations, has the
4 same meaning as the term "campus" as set forth in federal
5 Medicare regulations, 42 CFR 413.65.

6 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
7 eff. 7-13-12; 98-104, eff. 7-22-13.)

8 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

9 Sec. 6.09. (a) In order to facilitate the orderly
10 transition of aged and disabled patients from hospitals to
11 post-hospital care, whenever a patient who qualifies for the
12 federal Medicare program is hospitalized, the patient shall be
13 notified of discharge at least 24 hours prior to discharge from
14 the hospital. With regard to pending discharges to a skilled
15 nursing facility, the hospital must notify the case
16 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
17 least 24 hours prior to discharge. When the assessment is
18 completed in the hospital, the case coordination unit shall
19 provide the discharge planner with a copy of the prescreening
20 information and accompanying materials, which the discharge
21 planner shall transmit when the patient is discharged to a
22 skilled nursing facility. If home health services are ordered,
23 the hospital must inform its designated case coordination unit,
24 as defined in 89 Ill. Adm. Code 240.260, of the pending
25 discharge and must provide the patient with the case

1 coordination unit's telephone number and other contact
2 information.

3 (b) Every hospital shall develop procedures for a physician
4 with medical staff privileges at the hospital or any
5 appropriate medical staff member to provide the discharge
6 notice prescribed in subsection (a) of this Section. The
7 procedures must include prohibitions against discharging or
8 referring a patient to any of the following if unlicensed,
9 uncertified, or unregistered: (i) a board and care facility, as
10 defined in the Board and Care Home Act; (ii) an assisted living
11 and shared housing establishment, as defined in the Assisted
12 Living and Shared Housing Act; (iii) a facility licensed under
13 the Nursing Home Care Act, the Specialized Mental Health
14 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
15 the MC/DD Act; (iv) a supportive living facility, as defined in
16 Section 5-5.01a of the Illinois Public Aid Code; or (v) a
17 free-standing hospice facility licensed under the Hospice
18 Program Licensing Act if licensure, certification, or
19 registration is required. The Department of Public Health shall
20 annually provide hospitals with a list of licensed, certified,
21 or registered board and care facilities, assisted living and
22 shared housing establishments, nursing homes, supportive
23 living facilities, facilities licensed under the ID/DD
24 Community Care Act, the MC/DD Act, or the Specialized Mental
25 Health Rehabilitation Act of 2013, and hospice facilities.
26 Reliance upon this list by a hospital shall satisfy compliance

1 with this requirement. The procedure may also include a waiver
2 for any case in which a discharge notice is not feasible due to
3 a short length of stay in the hospital by the patient, or for
4 any case in which the patient voluntarily desires to leave the
5 hospital before the expiration of the 24 hour period.

6 (c) At least 24 hours prior to discharge from the hospital,
7 the patient shall receive written information on the patient's
8 right to appeal the discharge pursuant to the federal Medicare
9 program, including the steps to follow to appeal the discharge
10 and the appropriate telephone number to call in case the
11 patient intends to appeal the discharge.

12 (d) Before transfer of a patient to a long term care
13 facility licensed under the Nursing Home Care Act where elderly
14 persons reside, a hospital shall as soon as practicable
15 initiate a name-based criminal history background check by
16 electronic submission to the Department of State Police for all
17 persons between the ages of 18 and 70 years; provided, however,
18 that a hospital shall be required to initiate such a background
19 check only with respect to patients who:

20 (1) are transferring to a long term care facility for
21 the first time;

22 (2) have been in the hospital more than 5 days;

23 (3) are reasonably expected to remain at the long term
24 care facility for more than 30 days;

25 (4) have a known history of serious mental illness or
26 substance abuse; and

1 (5) are independently ambulatory or mobile for more
2 than a temporary period of time.

3 A hospital may also request a criminal history background
4 check for a patient who does not meet any of the criteria set
5 forth in items (1) through (5).

6 A hospital shall notify a long term care facility if the
7 hospital has initiated a criminal history background check on a
8 patient being discharged to that facility. In all circumstances
9 in which the hospital is required by this subsection to
10 initiate the criminal history background check, the transfer to
11 the long term care facility may proceed regardless of the
12 availability of criminal history results. Upon receipt of the
13 results, the hospital shall promptly forward the results to the
14 appropriate long term care facility. If the results of the
15 background check are inconclusive, the hospital shall have no
16 additional duty or obligation to seek additional information
17 from, or about, the patient.

18 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
19 eff. 7-13-12; 98-104, eff. 7-22-13; 98-651, eff. 6-16-14.)

20 (210 ILCS 85/6.09a)

21 Sec. 6.09a. Report of Death. Every hospital shall promptly
22 report the death of a person readily known to be, without an
23 investigation by the hospital, a resident of a facility
24 licensed under the ID/DD ~~MR/DD~~ Community Care Act or the MC/DD
25 Act, to the coroner or medical examiner. The coroner or medical

1 examiner shall promptly respond to the report by accepting or
2 not accepting the body for investigation.

3 (Source: P.A. 97-38, eff. 6-28-11.)

4 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

5 Sec. 7. (a) The Director after notice and opportunity for
6 hearing to the applicant or licensee may deny, suspend, or
7 revoke a permit to establish a hospital or deny, suspend, or
8 revoke a license to open, conduct, operate, and maintain a
9 hospital in any case in which he finds that there has been a
10 substantial failure to comply with the provisions of this Act,
11 the Hospital Report Card Act, or the Illinois Adverse Health
12 Care Events Reporting Law of 2005 or the standards, rules, and
13 regulations established by virtue of any of those Acts. The
14 Department may impose fines on hospitals, not to exceed \$500
15 per occurrence, for failing to (1) initiate a criminal
16 background check on a patient that meets the criteria for
17 hospital-initiated background checks or (2) report the death of
18 a person known to be a resident of a facility licensed under
19 the ID/DD ~~MR/DD~~ Community Care Act or the MC/DD Act to the
20 coroner or medical examiner within 24 hours as required by
21 Section 6.09a of this Act. In assessing whether to impose such
22 a fine for failure to initiate a criminal background check, the
23 Department shall consider various factors including, but not
24 limited to, whether the hospital has engaged in a pattern or
25 practice of failing to initiate criminal background checks.

1 Money from fines shall be deposited into the Long Term Care
2 Provider Fund.

3 (b) Such notice shall be effected by registered mail or by
4 personal service setting forth the particular reasons for the
5 proposed action and fixing a date, not less than 15 days from
6 the date of such mailing or service, at which time the
7 applicant or licensee shall be given an opportunity for a
8 hearing. Such hearing shall be conducted by the Director or by
9 an employee of the Department designated in writing by the
10 Director as Hearing Officer to conduct the hearing. On the
11 basis of any such hearing, or upon default of the applicant or
12 licensee, the Director shall make a determination specifying
13 his findings and conclusions. In case of a denial to an
14 applicant of a permit to establish a hospital, such
15 determination shall specify the subsection of Section 6 under
16 which the permit was denied and shall contain findings of fact
17 forming the basis of such denial. A copy of such determination
18 shall be sent by registered mail or served personally upon the
19 applicant or licensee. The decision denying, suspending, or
20 revoking a permit or a license shall become final 35 days after
21 it is so mailed or served, unless the applicant or licensee,
22 within such 35 day period, petitions for review pursuant to
23 Section 13.

24 (c) The procedure governing hearings authorized by this
25 Section shall be in accordance with rules promulgated by the
26 Department and approved by the Hospital Licensing Board. A full

1 and complete record shall be kept of all proceedings, including
2 the notice of hearing, complaint, and all other documents in
3 the nature of pleadings, written motions filed in the
4 proceedings, and the report and orders of the Director and
5 Hearing Officer. All testimony shall be reported but need not
6 be transcribed unless the decision is appealed pursuant to
7 Section 13. A copy or copies of the transcript may be obtained
8 by any interested party on payment of the cost of preparing
9 such copy or copies.

10 (d) The Director or Hearing Officer shall upon his own
11 motion, or on the written request of any party to the
12 proceeding, issue subpoenas requiring the attendance and the
13 giving of testimony by witnesses, and subpoenas duces tecum
14 requiring the production of books, papers, records, or
15 memoranda. All subpoenas and subpoenas duces tecum issued under
16 the terms of this Act may be served by any person of full age.
17 The fees of witnesses for attendance and travel shall be the
18 same as the fees of witnesses before the Circuit Court of this
19 State, such fees to be paid when the witness is excused from
20 further attendance. When the witness is subpoenaed at the
21 instance of the Director, or Hearing Officer, such fees shall
22 be paid in the same manner as other expenses of the Department,
23 and when the witness is subpoenaed at the instance of any other
24 party to any such proceeding the Department may require that
25 the cost of service of the subpoena or subpoena duces tecum and
26 the fee of the witness be borne by the party at whose instance

1 the witness is summoned. In such case, the Department in its
2 discretion, may require a deposit to cover the cost of such
3 service and witness fees. A subpoena or subpoena duces tecum
4 issued as aforesaid shall be served in the same manner as a
5 subpoena issued out of a court.

6 (e) Any Circuit Court of this State upon the application of
7 the Director, or upon the application of any other party to the
8 proceeding, may, in its discretion, compel the attendance of
9 witnesses, the production of books, papers, records, or
10 memoranda and the giving of testimony before the Director or
11 Hearing Officer conducting an investigation or holding a
12 hearing authorized by this Act, by an attachment for contempt,
13 or otherwise, in the same manner as production of evidence may
14 be compelled before the court.

15 (f) The Director or Hearing Officer, or any party in an
16 investigation or hearing before the Department, may cause the
17 depositions of witnesses within the State to be taken in the
18 manner prescribed by law for like depositions in civil actions
19 in courts of this State, and to that end compel the attendance
20 of witnesses and the production of books, papers, records, or
21 memoranda.

22 (Source: P.A. 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11.)

23 Section 135. The Language Assistance Services Act is
24 amended by changing Section 10 as follows:

1 (210 ILCS 87/10)

2 Sec. 10. Definitions. As used in this Act:

3 "Department" means the Department of Public Health.

4 "Interpreter" means a person fluent in English and in the
5 necessary language of the patient who can accurately speak,
6 read, and readily interpret the necessary second language, or a
7 person who can accurately sign and read sign language.
8 Interpreters shall have the ability to translate the names of
9 body parts and to describe completely symptoms and injuries in
10 both languages. Interpreters may include members of the medical
11 or professional staff.

12 "Language or communication barriers" means either of the
13 following:

14 (1) With respect to spoken language, barriers that are
15 experienced by limited-English-speaking or
16 non-English-speaking individuals who speak the same
17 primary language, if those individuals constitute at least
18 5% of the patients served by the health facility annually.

19 (2) With respect to sign language, barriers that are
20 experienced by individuals who are deaf and whose primary
21 language is sign language.

22 "Health facility" means a hospital licensed under the
23 Hospital Licensing Act, a long-term care facility licensed
24 under the Nursing Home Care Act, or a facility licensed under
25 the ID/DD Community Care Act, the MC/DD Act, or the Specialized
26 Mental Health Rehabilitation Act of 2013.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-104, eff. 7-22-13.)

3 Section 140. The Community-Integrated Living Arrangements
4 Licensure and Certification Act is amended by changing Section
5 4 as follows:

6 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

7 Sec. 4. (a) Any community mental health or developmental
8 services agency who wishes to develop and support a variety of
9 community-integrated living arrangements may do so pursuant to
10 a license issued by the Department under this Act. However,
11 programs established under or otherwise subject to the Child
12 Care Act of 1969, the Nursing Home Care Act, the Specialized
13 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
14 Community Care Act, or the MC/DD Act, as now or hereafter
15 amended, shall remain subject thereto, and this Act shall not
16 be construed to limit the application of those Acts.

17 (b) The system of licensure established under this Act
18 shall be for the purposes of:

19 (1) Insuring that all recipients residing in
20 community-integrated living arrangements are receiving
21 appropriate community-based services, including treatment,
22 training and habilitation or rehabilitation;

23 (2) Insuring that recipients' rights are protected and
24 that all programs provided to and placements arranged for

1 recipients comply with this Act, the Mental Health and
2 Developmental Disabilities Code, and applicable Department
3 rules and regulations;

4 (3) Maintaining the integrity of communities by
5 requiring regular monitoring and inspection of placements
6 and other services provided in community-integrated living
7 arrangements.

8 The licensure system shall be administered by a quality
9 assurance unit within the Department which shall be
10 administratively independent of units responsible for funding
11 of agencies or community services.

12 (c) As a condition of being licensed by the Department as a
13 community mental health or developmental services agency under
14 this Act, the agency shall certify to the Department that:

15 (1) All recipients residing in community-integrated
16 living arrangements are receiving appropriate
17 community-based services, including treatment, training
18 and habilitation or rehabilitation;

19 (2) All programs provided to and placements arranged
20 for recipients are supervised by the agency; and

21 (3) All programs provided to and placements arranged
22 for recipients comply with this Act, the Mental Health and
23 Developmental Disabilities Code, and applicable Department
24 rules and regulations.

25 (d) An applicant for licensure as a community mental health
26 or developmental services agency under this Act shall submit an

1 application pursuant to the application process established by
2 the Department by rule and shall pay an application fee in an
3 amount established by the Department, which amount shall not be
4 more than \$200.

5 (e) If an applicant meets the requirements established by
6 the Department to be licensed as a community mental health or
7 developmental services agency under this Act, after payment of
8 the licensing fee, the Department shall issue a license valid
9 for 3 years from the date thereof unless suspended or revoked
10 by the Department or voluntarily surrendered by the agency.

11 (f) Upon application to the Department, the Department may
12 issue a temporary permit to an applicant for a 6-month period
13 to allow the holder of such permit reasonable time to become
14 eligible for a license under this Act.

15 (g) (1) The Department may conduct site visits to an agency
16 licensed under this Act, or to any program or placement
17 certified by the agency, and inspect the records or premises,
18 or both, of such agency, program or placement as it deems
19 appropriate, for the purpose of determining compliance with
20 this Act, the Mental Health and Developmental Disabilities
21 Code, and applicable Department rules and regulations.

22 (2) If the Department determines that an agency licensed
23 under this Act is not in compliance with this Act or the rules
24 and regulations promulgated under this Act, the Department
25 shall serve a notice of violation upon the licensee. Each
26 notice of violation shall be prepared in writing and shall

1 specify the nature of the violation, the statutory provision or
2 rule alleged to have been violated, and that the licensee
3 submit a plan of correction to the Department if required. The
4 notice shall also inform the licensee of any other action which
5 the Department might take pursuant to this Act and of the right
6 to a hearing.

7 (g-5) As determined by the Department, a disproportionate
8 number or percentage of licensure complaints; a
9 disproportionate number or percentage of substantiated cases
10 of abuse, neglect, or exploitation involving an agency; an
11 apparent unnatural death of an individual served by an agency;
12 any egregious or life-threatening abuse or neglect within an
13 agency; or any other significant event as determined by the
14 Department shall initiate a review of the agency's license by
15 the Department, as well as a review of its service agreement
16 for funding. The Department shall adopt rules to establish the
17 process by which the determination to initiate a review shall
18 be made and the timeframe to initiate a review upon the making
19 of such determination.

20 (h) Upon the expiration of any license issued under this
21 Act, a license renewal application shall be required of and a
22 license renewal fee in an amount established by the Department
23 shall be charged to a community mental health or developmental
24 services agency, provided that such fee shall not be more than
25 \$200.

26 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-441,

1 eff. 8-19-11; 97-813, eff. 7-13-12; 98-104, eff. 7-22-13.)

2 Section 145. The Child Care Act of 1969 is amended by
3 changing Section 2.06 as follows:

4 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

5 Sec. 2.06. "Child care institution" means a child care
6 facility where more than 7 children are received and maintained
7 for the purpose of providing them with care or training or
8 both. The term "child care institution" includes residential
9 schools, primarily serving ambulatory handicapped children,
10 and those operating a full calendar year, but does not include:

11 (a) Any State-operated institution for child care
12 established by legislative action;

13 (b) Any juvenile detention or shelter care home established
14 and operated by any county or child protection district
15 established under the "Child Protection Act";

16 (c) Any institution, home, place or facility operating
17 under a license pursuant to the Nursing Home Care Act, the
18 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
19 ID/DD Community Care Act, or the MC/DD Act;

20 (d) Any bona fide boarding school in which children are
21 primarily taught branches of education corresponding to those
22 taught in public schools, grades one through 12, or taught in
23 public elementary schools, high schools, or both elementary and
24 high schools, and which operates on a regular academic school

1 year basis; or

2 (e) Any facility licensed as a "group home" as defined in
3 this Act.

4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 98-104, eff. 7-22-13.)

6 Section 150. The Health Care Worker Background Check Act is
7 amended by changing Section 15 as follows:

8 (225 ILCS 46/15)

9 Sec. 15. Definitions. In this Act:

10 "Applicant" means an individual seeking employment with a
11 health care employer who has received a bona fide conditional
12 offer of employment.

13 "Conditional offer of employment" means a bona fide offer
14 of employment by a health care employer to an applicant, which
15 is contingent upon the receipt of a report from the Department
16 of Public Health indicating that the applicant does not have a
17 record of conviction of any of the criminal offenses enumerated
18 in Section 25.

19 "Direct care" means the provision of nursing care or
20 assistance with feeding, dressing, movement, bathing,
21 toileting, or other personal needs, including home services as
22 defined in the Home Health, Home Services, and Home Nursing
23 Agency Licensing Act. The entity responsible for inspecting and
24 licensing, certifying, or registering the health care employer

1 may, by administrative rule, prescribe guidelines for
2 interpreting this definition with regard to the health care
3 employers that it licenses.

4 "Disqualifying offenses" means those offenses set forth in
5 Section 25 of this Act.

6 "Employee" means any individual hired, employed, or
7 retained to which this Act applies.

8 "Fingerprint-based criminal history records check" means a
9 livescan fingerprint-based criminal history records check
10 submitted as a fee applicant inquiry in the form and manner
11 prescribed by the Department of State Police.

12 "Health care employer" means:

13 (1) the owner or licensee of any of the following:

14 (i) a community living facility, as defined in the
15 Community Living Facilities Act;

16 (ii) a life care facility, as defined in the Life
17 Care Facilities Act;

18 (iii) a long-term care facility;

19 (iv) a home health agency, home services agency, or
20 home nursing agency as defined in the Home Health, Home
21 Services, and Home Nursing Agency Licensing Act;

22 (v) a hospice care program or volunteer hospice
23 program, as defined in the Hospice Program Licensing
24 Act;

25 (vi) a hospital, as defined in the Hospital
26 Licensing Act;

- 1 (vii) (blank);
- 2 (viii) a nurse agency, as defined in the Nurse
3 Agency Licensing Act;
- 4 (ix) a respite care provider, as defined in the
5 Respite Program Act;
- 6 (ix-a) an establishment licensed under the
7 Assisted Living and Shared Housing Act;
- 8 (x) a supportive living program, as defined in the
9 Illinois Public Aid Code;
- 10 (xi) early childhood intervention programs as
11 described in 59 Ill. Adm. Code 121;
- 12 (xii) the University of Illinois Hospital,
13 Chicago;
- 14 (xiii) programs funded by the Department on Aging
15 through the Community Care Program;
- 16 (xiv) programs certified to participate in the
17 Supportive Living Program authorized pursuant to
18 Section 5-5.01a of the Illinois Public Aid Code;
- 19 (xv) programs listed by the Emergency Medical
20 Services (EMS) Systems Act as Freestanding Emergency
21 Centers;
- 22 (xvi) locations licensed under the Alternative
23 Health Care Delivery Act;
- 24 (2) a day training program certified by the Department
25 of Human Services;
- 26 (3) a community integrated living arrangement operated

1 by a community mental health and developmental service
2 agency, as defined in the Community-Integrated Living
3 Arrangements Licensing and Certification Act; or

4 (4) the State Long Term Care Ombudsman Program,
5 including any regional long term care ombudsman programs
6 under Section 4.04 of the Illinois Act on the Aging, only
7 for the purpose of securing background checks.

8 "Initiate" means obtaining from a student, applicant, or
9 employee his or her social security number, demographics, a
10 disclosure statement, and an authorization for the Department
11 of Public Health or its designee to request a fingerprint-based
12 criminal history records check; transmitting this information
13 electronically to the Department of Public Health; conducting
14 Internet searches on certain web sites, including without
15 limitation the Illinois Sex Offender Registry, the Department
16 of Corrections' Sex Offender Search Engine, the Department of
17 Corrections' Inmate Search Engine, the Department of
18 Corrections Wanted Fugitives Search Engine, the National Sex
19 Offender Public Registry, and the website of the Health and
20 Human Services Office of Inspector General to determine if the
21 applicant has been adjudicated a sex offender, has been a
22 prison inmate, or has committed Medicare or Medicaid fraud, or
23 conducting similar searches as defined by rule; and having the
24 student, applicant, or employee's fingerprints collected and
25 transmitted electronically to the Department of State Police.

26 "Livescan vendor" means an entity whose equipment has been

1 certified by the Department of State Police to collect an
2 individual's demographics and inkless fingerprints and, in a
3 manner prescribed by the Department of State Police and the
4 Department of Public Health, electronically transmit the
5 fingerprints and required data to the Department of State
6 Police and a daily file of required data to the Department of
7 Public Health. The Department of Public Health shall negotiate
8 a contract with one or more vendors that effectively
9 demonstrate that the vendor has 2 or more years of experience
10 transmitting fingerprints electronically to the Department of
11 State Police and that the vendor can successfully transmit the
12 required data in a manner prescribed by the Department of
13 Public Health. Vendor authorization may be further defined by
14 administrative rule.

15 "Long-term care facility" means a facility licensed by the
16 State or certified under federal law as a long-term care
17 facility, including without limitation facilities licensed
18 under the Nursing Home Care Act, the Specialized Mental Health
19 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
20 the MC/DD Act, a supportive living facility, an assisted living
21 establishment, or a shared housing establishment or registered
22 as a board and care home.

23 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
24 eff. 7-13-12; 98-104, eff. 7-22-13.)

25 Section 155. The Nursing Home Administrators Licensing and

1 Disciplinary Act is amended by changing Sections 4 and 17 as
2 follows:

3 (225 ILCS 70/4) (from Ch. 111, par. 3654)

4 (Section scheduled to be repealed on January 1, 2018)

5 Sec. 4. Definitions. For purposes of this Act, the
6 following definitions shall have the following meanings,
7 except where the context requires otherwise:

8 (1) "Act" means the Nursing Home Administrators
9 Licensing and Disciplinary Act.

10 (2) "Department" means the Department of Financial and
11 Professional Regulation.

12 (3) "Secretary" means the Secretary of Financial and
13 Professional Regulation.

14 (4) "Board" means the Nursing Home Administrators
15 Licensing and Disciplinary Board appointed by the
16 Governor.

17 (5) "Nursing home administrator" means the individual
18 licensed under this Act and directly responsible for
19 planning, organizing, directing and supervising the
20 operation of a nursing home, or who in fact performs such
21 functions, whether or not such functions are delegated to
22 one or more other persons.

23 (6) "Nursing home" or "facility" means any entity that
24 is required to be licensed by the Department of Public
25 Health under the Nursing Home Care Act, as amended, other

1 than a sheltered care home as defined thereunder, and
2 includes private homes, institutions, buildings,
3 residences, or other places, whether operated for profit or
4 not, irrespective of the names attributed to them, county
5 homes for the infirm and chronically ill operated pursuant
6 to the County Nursing Home Act, as amended, and any similar
7 institutions operated by a political subdivision of the
8 State of Illinois that provide, though their ownership or
9 management, maintenance, personal care, and nursing for 3
10 or more persons, not related to the owner by blood or
11 marriage, or any similar facilities in which maintenance is
12 provided to 3 or more persons who by reason of illness of
13 physical infirmity require personal care and nursing. The
14 term also means any facility licensed under the ID/DD
15 Community Care Act, the MC/DD Act, or the Specialized
16 Mental Health Rehabilitation Act of 2013.

17 (7) "Maintenance" means food, shelter and laundry.

18 (8) "Personal care" means assistance with meals,
19 dressing, movement, bathing, or other personal needs, or
20 general supervision of the physical and mental well-being
21 of an individual who because of age, physical, or mental
22 disability, emotion or behavior disorder, or an
23 intellectual disability is incapable of managing his or her
24 person, whether or not a guardian has been appointed for
25 such individual. For the purposes of this Act, this
26 definition does not include the professional services of a

1 nurse.

2 (9) "Nursing" means professional nursing or practical
3 nursing, as those terms are defined in the Nurse Practice
4 Act, for sick or infirm persons who are under the care and
5 supervision of licensed physicians or dentists.

6 (10) "Disciplinary action" means revocation,
7 suspension, probation, supervision, reprimand, required
8 education, fines or any other action taken by the
9 Department against a person holding a license.

10 (11) "Impaired" means the inability to practice with
11 reasonable skill and safety due to physical or mental
12 disabilities as evidenced by a written determination or
13 written consent based on clinical evidence including
14 deterioration through the aging process or loss of motor
15 skill, or abuse of drugs or alcohol, of sufficient degree
16 to diminish a person's ability to administer a nursing
17 home.

18 (12) "Address of record" means the designated address
19 recorded by the Department in the applicant's or licensee's
20 application file or license file maintained by the
21 Department's licensure maintenance unit. It is the duty of
22 the applicant or licensee to inform the Department of any
23 change of address, and such changes must be made either
24 through the Department's website or by contacting the
25 Department's licensure maintenance unit.

26 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,

1 eff. 7-13-12; 98-104, eff. 7-22-13.)

2 (225 ILCS 70/17) (from Ch. 111, par. 3667)

3 Sec. 17. Grounds for disciplinary action.

4 (a) The Department may impose fines not to exceed \$10,000
5 or may refuse to issue or to renew, or may revoke, suspend,
6 place on probation, censure, reprimand or take other
7 disciplinary or non-disciplinary action with regard to the
8 license of any person, for any one or combination of the
9 following causes:

10 (1) Intentional material misstatement in furnishing
11 information to the Department.

12 (2) Conviction of or entry of a plea of guilty or nolo
13 contendere to any crime that is a felony under the laws of
14 the United States or any state or territory thereof or a
15 misdemeanor of which an essential element is dishonesty or
16 that is directly related to the practice of the profession
17 of nursing home administration.

18 (3) Making any misrepresentation for the purpose of
19 obtaining a license, or violating any provision of this
20 Act.

21 (4) Immoral conduct in the commission of any act, such
22 as sexual abuse or sexual misconduct, related to the
23 licensee's practice.

24 (5) Failing to respond within 30 days, to a written
25 request made by the Department for information.

1 (6) Engaging in dishonorable, unethical or
2 unprofessional conduct of a character likely to deceive,
3 defraud or harm the public.

4 (7) Habitual use or addiction to alcohol, narcotics,
5 stimulants, or any other chemical agent or drug which
6 results in the inability to practice with reasonable
7 judgment, skill or safety.

8 (8) Discipline by another U.S. jurisdiction if at least
9 one of the grounds for the discipline is the same or
10 substantially equivalent to those set forth herein.

11 (9) A finding by the Department that the licensee,
12 after having his or her license placed on probationary
13 status has violated the terms of probation.

14 (10) Willfully making or filing false records or
15 reports in his or her practice, including but not limited
16 to false records filed with State agencies or departments.

17 (11) Physical illness, mental illness, or other
18 impairment or disability, including, but not limited to,
19 deterioration through the aging process, or loss of motor
20 skill that results in the inability to practice the
21 profession with reasonable judgment, skill or safety.

22 (12) Disregard or violation of this Act or of any rule
23 issued pursuant to this Act.

24 (13) Aiding or abetting another in the violation of
25 this Act or any rule or regulation issued pursuant to this
26 Act.

1 (14) Allowing one's license to be used by an unlicensed
2 person.

3 (15) (Blank).

4 (16) Professional incompetence in the practice of
5 nursing home administration.

6 (17) Conviction of a violation of Section 12-19 or
7 subsection (a) of Section 12-4.4a of the Criminal Code of
8 1961 or the Criminal Code of 2012 for the abuse and
9 criminal neglect of a long term care facility resident.

10 (18) Violation of the Nursing Home Care Act, the
11 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
12 the ID/DD Community Care Act, or the MC/DD Act or of any
13 rule issued under the Nursing Home Care Act, the
14 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
15 the ID/DD Community Care Act, or the MC/DD Act. A final
16 adjudication of a Type "AA" violation of the Nursing Home
17 Care Act made by the Illinois Department of Public Health,
18 as identified by rule, relating to the hiring, training,
19 planning, organizing, directing, or supervising the
20 operation of a nursing home and a licensee's failure to
21 comply with this Act or the rules adopted under this Act,
22 shall create a rebuttable presumption of a violation of
23 this subsection.

24 (19) Failure to report to the Department any adverse
25 final action taken against the licensee by a licensing
26 authority of another state, territory of the United States,

1 or foreign country; or by any governmental or law
2 enforcement agency; or by any court for acts or conduct
3 similar to acts or conduct that would constitute grounds
4 for disciplinary action under this Section.

5 (20) Failure to report to the Department the surrender
6 of a license or authorization to practice as a nursing home
7 administrator in another state or jurisdiction for acts or
8 conduct similar to acts or conduct that would constitute
9 grounds for disciplinary action under this Section.

10 (21) Failure to report to the Department any adverse
11 judgment, settlement, or award arising from a liability
12 claim related to acts or conduct similar to acts or conduct
13 that would constitute grounds for disciplinary action
14 under this Section.

15 (22) Failure to submit any required report under
16 Section 80-10 of the Nurse Practice Act.

17 All proceedings to suspend, revoke, place on probationary
18 status, or take any other disciplinary action as the Department
19 may deem proper, with regard to a license on any of the
20 foregoing grounds, must be commenced within 5 years next after
21 receipt by the Department of (i) a complaint alleging the
22 commission of or notice of the conviction order for any of the
23 acts described herein or (ii) a referral for investigation
24 under Section 3-108 of the Nursing Home Care Act.

25 The entry of an order or judgment by any circuit court
26 establishing that any person holding a license under this Act

1 is a person in need of mental treatment operates as a
2 suspension of that license. That person may resume their
3 practice only upon the entry of a Department order based upon a
4 finding by the Board that they have been determined to be
5 recovered from mental illness by the court and upon the Board's
6 recommendation that they be permitted to resume their practice.

7 The Department, upon the recommendation of the Board, may
8 adopt rules which set forth standards to be used in determining
9 what constitutes:

10 (i) when a person will be deemed sufficiently
11 rehabilitated to warrant the public trust;

12 (ii) dishonorable, unethical or unprofessional conduct
13 of a character likely to deceive, defraud, or harm the
14 public;

15 (iii) immoral conduct in the commission of any act
16 related to the licensee's practice; and

17 (iv) professional incompetence in the practice of
18 nursing home administration.

19 However, no such rule shall be admissible into evidence in
20 any civil action except for review of a licensing or other
21 disciplinary action under this Act.

22 In enforcing this Section, the Department or Board, upon a
23 showing of a possible violation, may compel any individual
24 licensed to practice under this Act, or who has applied for
25 licensure pursuant to this Act, to submit to a mental or
26 physical examination, or both, as required by and at the

1 expense of the Department. The examining physician or
2 physicians shall be those specifically designated by the
3 Department or Board. The Department or Board may order the
4 examining physician to present testimony concerning this
5 mental or physical examination of the licensee or applicant. No
6 information shall be excluded by reason of any common law or
7 statutory privilege relating to communications between the
8 licensee or applicant and the examining physician. The
9 individual to be examined may have, at his or her own expense,
10 another physician of his or her choice present during all
11 aspects of the examination. Failure of any individual to submit
12 to mental or physical examination, when directed, shall be
13 grounds for suspension of his or her license until such time as
14 the individual submits to the examination if the Department
15 finds, after notice and hearing, that the refusal to submit to
16 the examination was without reasonable cause.

17 If the Department or Board finds an individual unable to
18 practice because of the reasons set forth in this Section, the
19 Department or Board shall require such individual to submit to
20 care, counseling, or treatment by physicians approved or
21 designated by the Department or Board, as a condition, term, or
22 restriction for continued, reinstated, or renewed licensure to
23 practice; or in lieu of care, counseling, or treatment, the
24 Department may file, or the Board may recommend to the
25 Department to file, a complaint to immediately suspend, revoke,
26 or otherwise discipline the license of the individual. Any

1 individual whose license was granted pursuant to this Act or
2 continued, reinstated, renewed, disciplined or supervised,
3 subject to such terms, conditions or restrictions who shall
4 fail to comply with such terms, conditions or restrictions
5 shall be referred to the Secretary for a determination as to
6 whether the licensee shall have his or her license suspended
7 immediately, pending a hearing by the Department. In instances
8 in which the Secretary immediately suspends a license under
9 this Section, a hearing upon such person's license must be
10 convened by the Board within 30 days after such suspension and
11 completed without appreciable delay. The Department and Board
12 shall have the authority to review the subject administrator's
13 record of treatment and counseling regarding the impairment, to
14 the extent permitted by applicable federal statutes and
15 regulations safeguarding the confidentiality of medical
16 records.

17 An individual licensed under this Act, affected under this
18 Section, shall be afforded an opportunity to demonstrate to the
19 Department or Board that he or she can resume practice in
20 compliance with acceptable and prevailing standards under the
21 provisions of his or her license.

22 (b) Any individual or organization acting in good faith,
23 and not in a wilful and wanton manner, in complying with this
24 Act by providing any report or other information to the
25 Department, or assisting in the investigation or preparation of
26 such information, or by participating in proceedings of the

1 Department, or by serving as a member of the Board, shall not,
2 as a result of such actions, be subject to criminal prosecution
3 or civil damages.

4 (c) Members of the Board, and persons retained under
5 contract to assist and advise in an investigation, shall be
6 indemnified by the State for any actions occurring within the
7 scope of services on or for the Board, done in good faith and
8 not wilful and wanton in nature. The Attorney General shall
9 defend all such actions unless he or she determines either that
10 there would be a conflict of interest in such representation or
11 that the actions complained of were not in good faith or were
12 wilful and wanton.

13 Should the Attorney General decline representation, a
14 person entitled to indemnification under this Section shall
15 have the right to employ counsel of his or her choice, whose
16 fees shall be provided by the State, after approval by the
17 Attorney General, unless there is a determination by a court
18 that the member's actions were not in good faith or were wilful
19 and wanton.

20 A person entitled to indemnification under this Section
21 must notify the Attorney General within 7 days of receipt of
22 notice of the initiation of any action involving services of
23 the Board. Failure to so notify the Attorney General shall
24 constitute an absolute waiver of the right to a defense and
25 indemnification.

26 The Attorney General shall determine within 7 days after

1 receiving such notice, whether he or she will undertake to
2 represent a person entitled to indemnification under this
3 Section.

4 (d) The determination by a circuit court that a licensee is
5 subject to involuntary admission or judicial admission as
6 provided in the Mental Health and Developmental Disabilities
7 Code, as amended, operates as an automatic suspension. Such
8 suspension will end only upon a finding by a court that the
9 patient is no longer subject to involuntary admission or
10 judicial admission and issues an order so finding and
11 discharging the patient; and upon the recommendation of the
12 Board to the Secretary that the licensee be allowed to resume
13 his or her practice.

14 (e) The Department may refuse to issue or may suspend the
15 license of any person who fails to file a return, or to pay the
16 tax, penalty or interest shown in a filed return, or to pay any
17 final assessment of tax, penalty or interest, as required by
18 any tax Act administered by the Department of Revenue, until
19 such time as the requirements of any such tax Act are
20 satisfied.

21 (f) The Department of Public Health shall transmit to the
22 Department a list of those facilities which receive an "A"
23 violation as defined in Section 1-129 of the Nursing Home Care
24 Act.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;
26 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-104, eff.

1 7-22-13; 98-990, eff. 8-18-14.)

2 Section 160. The Pharmacy Practice Act is amended by
3 changing Section 3 as follows:

4 (225 ILCS 85/3)

5 (Section scheduled to be repealed on January 1, 2018)

6 Sec. 3. Definitions. For the purpose of this Act, except
7 where otherwise limited therein:

8 (a) "Pharmacy" or "drugstore" means and includes every
9 store, shop, pharmacy department, or other place where
10 pharmacist care is provided by a pharmacist (1) where drugs,
11 medicines, or poisons are dispensed, sold or offered for sale
12 at retail, or displayed for sale at retail; or (2) where
13 prescriptions of physicians, dentists, advanced practice
14 nurses, physician assistants, veterinarians, podiatric
15 physicians, or optometrists, within the limits of their
16 licenses, are compounded, filled, or dispensed; or (3) which
17 has upon it or displayed within it, or affixed to or used in
18 connection with it, a sign bearing the word or words
19 "Pharmacist", "Druggist", "Pharmacy", "Pharmaceutical Care",
20 "Apothecary", "Drugstore", "Medicine Store", "Prescriptions",
21 "Drugs", "Dispensary", "Medicines", or any word or words of
22 similar or like import, either in the English language or any
23 other language; or (4) where the characteristic prescription
24 sign (Rx) or similar design is exhibited; or (5) any store, or

1 shop, or other place with respect to which any of the above
2 words, objects, signs or designs are used in any advertisement.

3 (b) "Drugs" means and includes (1) articles recognized in
4 the official United States Pharmacopoeia/National Formulary
5 (USP/NF), or any supplement thereto and being intended for and
6 having for their main use the diagnosis, cure, mitigation,
7 treatment or prevention of disease in man or other animals, as
8 approved by the United States Food and Drug Administration, but
9 does not include devices or their components, parts, or
10 accessories; and (2) all other articles intended for and having
11 for their main use the diagnosis, cure, mitigation, treatment
12 or prevention of disease in man or other animals, as approved
13 by the United States Food and Drug Administration, but does not
14 include devices or their components, parts, or accessories; and
15 (3) articles (other than food) having for their main use and
16 intended to affect the structure or any function of the body of
17 man or other animals; and (4) articles having for their main
18 use and intended for use as a component or any articles
19 specified in clause (1), (2) or (3); but does not include
20 devices or their components, parts or accessories.

21 (c) "Medicines" means and includes all drugs intended for
22 human or veterinary use approved by the United States Food and
23 Drug Administration.

24 (d) "Practice of pharmacy" means (1) the interpretation and
25 the provision of assistance in the monitoring, evaluation, and
26 implementation of prescription drug orders; (2) the dispensing

1 of prescription drug orders; (3) participation in drug and
2 device selection; (4) drug administration limited to the
3 administration of oral, topical, injectable, and inhalation as
4 follows: in the context of patient education on the proper use
5 or delivery of medications; vaccination of patients 14 years of
6 age and older pursuant to a valid prescription or standing
7 order, by a physician licensed to practice medicine in all its
8 branches, upon completion of appropriate training, including
9 how to address contraindications and adverse reactions set
10 forth by rule, with notification to the patient's physician and
11 appropriate record retention, or pursuant to hospital pharmacy
12 and therapeutics committee policies and procedures; (5)
13 vaccination of patients ages 10 through 13 limited to the
14 Influenza (inactivated influenza vaccine and live attenuated
15 influenza intranasal vaccine) and Tdap (defined as tetanus,
16 diphtheria, acellular pertussis) vaccines, pursuant to a valid
17 prescription or standing order, by a physician licensed to
18 practice medicine in all its branches, upon completion of
19 appropriate training, including how to address
20 contraindications and adverse reactions set forth by rule, with
21 notification to the patient's physician and appropriate record
22 retention, or pursuant to hospital pharmacy and therapeutics
23 committee policies and procedures; (6) drug regimen review; (7)
24 drug or drug-related research; (8) the provision of patient
25 counseling; (9) the practice of telepharmacy; (10) the
26 provision of those acts or services necessary to provide

1 pharmacist care; (11) medication therapy management; and (12)
2 the responsibility for compounding and labeling of drugs and
3 devices (except labeling by a manufacturer, repackager, or
4 distributor of non-prescription drugs and commercially
5 packaged legend drugs and devices), proper and safe storage of
6 drugs and devices, and maintenance of required records. A
7 pharmacist who performs any of the acts defined as the practice
8 of pharmacy in this State must be actively licensed as a
9 pharmacist under this Act.

10 (e) "Prescription" means and includes any written, oral,
11 facsimile, or electronically transmitted order for drugs or
12 medical devices, issued by a physician licensed to practice
13 medicine in all its branches, dentist, veterinarian, podiatric
14 physician, or optometrist, within the limits of their licenses,
15 by a physician assistant in accordance with subsection (f) of
16 Section 4, or by an advanced practice nurse in accordance with
17 subsection (g) of Section 4, containing the following: (1) name
18 of the patient; (2) date when prescription was issued; (3) name
19 and strength of drug or description of the medical device
20 prescribed; and (4) quantity; (5) directions for use; (6)
21 prescriber's name, address, and signature; and (7) DEA number
22 where required, for controlled substances. The prescription
23 may, but is not required to, list the illness, disease, or
24 condition for which the drug or device is being prescribed. DEA
25 numbers shall not be required on inpatient drug orders.

26 (f) "Person" means and includes a natural person,

1 copartnership, association, corporation, government entity, or
2 any other legal entity.

3 (g) "Department" means the Department of Financial and
4 Professional Regulation.

5 (h) "Board of Pharmacy" or "Board" means the State Board of
6 Pharmacy of the Department of Financial and Professional
7 Regulation.

8 (i) "Secretary" means the Secretary of Financial and
9 Professional Regulation.

10 (j) "Drug product selection" means the interchange for a
11 prescribed pharmaceutical product in accordance with Section
12 25 of this Act and Section 3.14 of the Illinois Food, Drug and
13 Cosmetic Act.

14 (k) "Inpatient drug order" means an order issued by an
15 authorized prescriber for a resident or patient of a facility
16 licensed under the Nursing Home Care Act, the ID/DD Community
17 Care Act, the MC/DD Act, the Specialized Mental Health
18 Rehabilitation Act of 2013, or the Hospital Licensing Act, or
19 "An Act in relation to the founding and operation of the
20 University of Illinois Hospital and the conduct of University
21 of Illinois health care programs", approved July 3, 1931, as
22 amended, or a facility which is operated by the Department of
23 Human Services (as successor to the Department of Mental Health
24 and Developmental Disabilities) or the Department of
25 Corrections.

26 (k-5) "Pharmacist" means an individual health care

1 professional and provider currently licensed by this State to
2 engage in the practice of pharmacy.

3 (l) "Pharmacist in charge" means the licensed pharmacist
4 whose name appears on a pharmacy license and who is responsible
5 for all aspects of the operation related to the practice of
6 pharmacy.

7 (m) "Dispense" or "dispensing" means the interpretation,
8 evaluation, and implementation of a prescription drug order,
9 including the preparation and delivery of a drug or device to a
10 patient or patient's agent in a suitable container
11 appropriately labeled for subsequent administration to or use
12 by a patient in accordance with applicable State and federal
13 laws and regulations. "Dispense" or "dispensing" does not mean
14 the physical delivery to a patient or a patient's
15 representative in a home or institution by a designee of a
16 pharmacist or by common carrier. "Dispense" or "dispensing"
17 also does not mean the physical delivery of a drug or medical
18 device to a patient or patient's representative by a
19 pharmacist's designee within a pharmacy or drugstore while the
20 pharmacist is on duty and the pharmacy is open.

21 (n) "Nonresident pharmacy" means a pharmacy that is located
22 in a state, commonwealth, or territory of the United States,
23 other than Illinois, that delivers, dispenses, or distributes,
24 through the United States Postal Service, commercially
25 acceptable parcel delivery service, or other common carrier, to
26 Illinois residents, any substance which requires a

1 prescription.

2 (o) "Compounding" means the preparation and mixing of
3 components, excluding flavorings, (1) as the result of a
4 prescriber's prescription drug order or initiative based on the
5 prescriber-patient-pharmacist relationship in the course of
6 professional practice or (2) for the purpose of, or incident
7 to, research, teaching, or chemical analysis and not for sale
8 or dispensing. "Compounding" includes the preparation of drugs
9 or devices in anticipation of receiving prescription drug
10 orders based on routine, regularly observed dispensing
11 patterns. Commercially available products may be compounded
12 for dispensing to individual patients only if all of the
13 following conditions are met: (i) the commercial product is not
14 reasonably available from normal distribution channels in a
15 timely manner to meet the patient's needs and (ii) the
16 prescribing practitioner has requested that the drug be
17 compounded.

18 (p) (Blank).

19 (q) (Blank).

20 (r) "Patient counseling" means the communication between a
21 pharmacist or a student pharmacist under the supervision of a
22 pharmacist and a patient or the patient's representative about
23 the patient's medication or device for the purpose of
24 optimizing proper use of prescription medications or devices.
25 "Patient counseling" may include without limitation (1)
26 obtaining a medication history; (2) acquiring a patient's

1 allergies and health conditions; (3) facilitation of the
2 patient's understanding of the intended use of the medication;
3 (4) proper directions for use; (5) significant potential
4 adverse events; (6) potential food-drug interactions; and (7)
5 the need to be compliant with the medication therapy. A
6 pharmacy technician may only participate in the following
7 aspects of patient counseling under the supervision of a
8 pharmacist: (1) obtaining medication history; (2) providing
9 the offer for counseling by a pharmacist or student pharmacist;
10 and (3) acquiring a patient's allergies and health conditions.

11 (s) "Patient profiles" or "patient drug therapy record"
12 means the obtaining, recording, and maintenance of patient
13 prescription information, including prescriptions for
14 controlled substances, and personal information.

15 (t) (Blank).

16 (u) "Medical device" means an instrument, apparatus,
17 implement, machine, contrivance, implant, in vitro reagent, or
18 other similar or related article, including any component part
19 or accessory, required under federal law to bear the label
20 "Caution: Federal law requires dispensing by or on the order of
21 a physician". A seller of goods and services who, only for the
22 purpose of retail sales, compounds, sells, rents, or leases
23 medical devices shall not, by reasons thereof, be required to
24 be a licensed pharmacy.

25 (v) "Unique identifier" means an electronic signature,
26 handwritten signature or initials, thumb print, or other

1 acceptable biometric or electronic identification process as
2 approved by the Department.

3 (w) "Current usual and customary retail price" means the
4 price that a pharmacy charges to a non-third-party payor.

5 (x) "Automated pharmacy system" means a mechanical system
6 located within the confines of the pharmacy or remote location
7 that performs operations or activities, other than compounding
8 or administration, relative to storage, packaging, dispensing,
9 or distribution of medication, and which collects, controls,
10 and maintains all transaction information.

11 (y) "Drug regimen review" means and includes the evaluation
12 of prescription drug orders and patient records for (1) known
13 allergies; (2) drug or potential therapy contraindications;
14 (3) reasonable dose, duration of use, and route of
15 administration, taking into consideration factors such as age,
16 gender, and contraindications; (4) reasonable directions for
17 use; (5) potential or actual adverse drug reactions; (6)
18 drug-drug interactions; (7) drug-food interactions; (8)
19 drug-disease contraindications; (9) therapeutic duplication;
20 (10) patient laboratory values when authorized and available;
21 (11) proper utilization (including over or under utilization)
22 and optimum therapeutic outcomes; and (12) abuse and misuse.

23 (z) "Electronic transmission prescription" means any
24 prescription order for which a facsimile or electronic image of
25 the order is electronically transmitted from a licensed
26 prescriber to a pharmacy. "Electronic transmission

1 prescription" includes both data and image prescriptions.

2 (aa) "Medication therapy management services" means a
3 distinct service or group of services offered by licensed
4 pharmacists, physicians licensed to practice medicine in all
5 its branches, advanced practice nurses authorized in a written
6 agreement with a physician licensed to practice medicine in all
7 its branches, or physician assistants authorized in guidelines
8 by a supervising physician that optimize therapeutic outcomes
9 for individual patients through improved medication use. In a
10 retail or other non-hospital pharmacy, medication therapy
11 management services shall consist of the evaluation of
12 prescription drug orders and patient medication records to
13 resolve conflicts with the following:

- 14 (1) known allergies;
- 15 (2) drug or potential therapy contraindications;
- 16 (3) reasonable dose, duration of use, and route of
17 administration, taking into consideration factors such as
18 age, gender, and contraindications;
- 19 (4) reasonable directions for use;
- 20 (5) potential or actual adverse drug reactions;
- 21 (6) drug-drug interactions;
- 22 (7) drug-food interactions;
- 23 (8) drug-disease contraindications;
- 24 (9) identification of therapeutic duplication;
- 25 (10) patient laboratory values when authorized and
26 available;

1 (11) proper utilization (including over or under
2 utilization) and optimum therapeutic outcomes; and

3 (12) drug abuse and misuse.

4 "Medication therapy management services" includes the
5 following:

6 (1) documenting the services delivered and
7 communicating the information provided to patients'
8 prescribers within an appropriate time frame, not to exceed
9 48 hours;

10 (2) providing patient counseling designed to enhance a
11 patient's understanding and the appropriate use of his or
12 her medications; and

13 (3) providing information, support services, and
14 resources designed to enhance a patient's adherence with
15 his or her prescribed therapeutic regimens.

16 "Medication therapy management services" may also include
17 patient care functions authorized by a physician licensed to
18 practice medicine in all its branches for his or her identified
19 patient or groups of patients under specified conditions or
20 limitations in a standing order from the physician.

21 "Medication therapy management services" in a licensed
22 hospital may also include the following:

23 (1) reviewing assessments of the patient's health
24 status; and

25 (2) following protocols of a hospital pharmacy and
26 therapeutics committee with respect to the fulfillment of

1 medication orders.

2 (bb) "Pharmacist care" means the provision by a pharmacist
3 of medication therapy management services, with or without the
4 dispensing of drugs or devices, intended to achieve outcomes
5 that improve patient health, quality of life, and comfort and
6 enhance patient safety.

7 (cc) "Protected health information" means individually
8 identifiable health information that, except as otherwise
9 provided, is:

10 (1) transmitted by electronic media;

11 (2) maintained in any medium set forth in the
12 definition of "electronic media" in the federal Health
13 Insurance Portability and Accountability Act; or

14 (3) transmitted or maintained in any other form or
15 medium.

16 "Protected health information" does not include
17 individually identifiable health information found in:

18 (1) education records covered by the federal Family
19 Educational Right and Privacy Act; or

20 (2) employment records held by a licensee in its role
21 as an employer.

22 (dd) "Standing order" means a specific order for a patient
23 or group of patients issued by a physician licensed to practice
24 medicine in all its branches in Illinois.

25 (ee) "Address of record" means the address recorded by the
26 Department in the applicant's or licensee's application file or

1 license file, as maintained by the Department's licensure
2 maintenance unit.

3 (ff) "Home pharmacy" means the location of a pharmacy's
4 primary operations.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 97-1043, eff. 8-21-12; 98-104, eff. 7-22-13;
7 98-214, eff. 8-9-13; 98-756, eff. 7-16-14.)

8 Section 165. The Nurse Agency Licensing Act is amended by
9 changing Section 3 as follows:

10 (225 ILCS 510/3) (from Ch. 111, par. 953)

11 Sec. 3. Definitions. As used in this Act:

12 (a) "Certified nurse aide" means an individual certified as
13 defined in Section 3-206 of the Nursing Home Care Act, ~~or~~
14 Section 3-206 of the ID/DD Community Care Act, or Section 3-206
15 of the MC/DD Act, as now or hereafter amended.

16 (b) "Department" means the Department of Labor.

17 (c) "Director" means the Director of Labor.

18 (d) "Health care facility" is defined as in Section 3 of
19 the Illinois Health Facilities Planning Act, as now or
20 hereafter amended.

21 (e) "Licensee" means any nursing agency which is properly
22 licensed under this Act.

23 (f) "Nurse" means a registered nurse or a licensed
24 practical nurse as defined in the Nurse Practice Act.

1 (g) "Nurse agency" means any individual, firm,
2 corporation, partnership or other legal entity that employs,
3 assigns or refers nurses or certified nurse aides to a health
4 care facility for a fee. The term "nurse agency" includes
5 nurses registries. The term "nurse agency" does not include
6 services provided by home health agencies licensed and operated
7 under the Home Health, Home Services, and Home Nursing Agency
8 Licensing Act or a licensed or certified individual who
9 provides his or her own services as a regular employee of a
10 health care facility, nor does it apply to a health care
11 facility's organizing nonsalaried employees to provide
12 services only in that facility.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
14 eff. 7-13-12; 98-104, eff. 7-22-13.)

15 Section 170. The Illinois Public Aid Code is amended by
16 changing Sections 5-5, 5-5.7, 5-5.12, 5-5e, 5-6, 5B-1, 5E-5,
17 8A-11, 11-4.1, and 12-4.25 as follows:

18 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

19 Sec. 5-5. Medical services. The Illinois Department, by
20 rule, shall determine the quantity and quality of and the rate
21 of reimbursement for the medical assistance for which payment
22 will be authorized, and the medical services to be provided,
23 which may include all or part of the following: (1) inpatient
24 hospital services; (2) outpatient hospital services; (3) other

1 laboratory and X-ray services; (4) skilled nursing home
2 services; (5) physicians' services whether furnished in the
3 office, the patient's home, a hospital, a skilled nursing home,
4 or elsewhere; (6) medical care, or any other type of remedial
5 care furnished by licensed practitioners; (7) home health care
6 services; (8) private duty nursing service; (9) clinic
7 services; (10) dental services, including prevention and
8 treatment of periodontal disease and dental caries disease for
9 pregnant women, provided by an individual licensed to practice
10 dentistry or dental surgery; for purposes of this item (10),
11 "dental services" means diagnostic, preventive, or corrective
12 procedures provided by or under the supervision of a dentist in
13 the practice of his or her profession; (11) physical therapy
14 and related services; (12) prescribed drugs, dentures, and
15 prosthetic devices; and eyeglasses prescribed by a physician
16 skilled in the diseases of the eye, or by an optometrist,
17 whichever the person may select; (13) other diagnostic,
18 screening, preventive, and rehabilitative services, including
19 to ensure that the individual's need for intervention or
20 treatment of mental disorders or substance use disorders or
21 co-occurring mental health and substance use disorders is
22 determined using a uniform screening, assessment, and
23 evaluation process inclusive of criteria, for children and
24 adults; for purposes of this item (13), a uniform screening,
25 assessment, and evaluation process refers to a process that
26 includes an appropriate evaluation and, as warranted, a

1 referral; "uniform" does not mean the use of a singular
2 instrument, tool, or process that all must utilize; (14)
3 transportation and such other expenses as may be necessary;
4 (15) medical treatment of sexual assault survivors, as defined
5 in Section 1a of the Sexual Assault Survivors Emergency
6 Treatment Act, for injuries sustained as a result of the sexual
7 assault, including examinations and laboratory tests to
8 discover evidence which may be used in criminal proceedings
9 arising from the sexual assault; (16) the diagnosis and
10 treatment of sickle cell anemia; and (17) any other medical
11 care, and any other type of remedial care recognized under the
12 laws of this State, but not including abortions, or induced
13 miscarriages or premature births, unless, in the opinion of a
14 physician, such procedures are necessary for the preservation
15 of the life of the woman seeking such treatment, or except an
16 induced premature birth intended to produce a live viable child
17 and such procedure is necessary for the health of the mother or
18 her unborn child. The Illinois Department, by rule, shall
19 prohibit any physician from providing medical assistance to
20 anyone eligible therefor under this Code where such physician
21 has been found guilty of performing an abortion procedure in a
22 wilful and wanton manner upon a woman who was not pregnant at
23 the time such abortion procedure was performed. The term "any
24 other type of remedial care" shall include nursing care and
25 nursing home service for persons who rely on treatment by
26 spiritual means alone through prayer for healing.

1 Notwithstanding any other provision of this Section, a
2 comprehensive tobacco use cessation program that includes
3 purchasing prescription drugs or prescription medical devices
4 approved by the Food and Drug Administration shall be covered
5 under the medical assistance program under this Article for
6 persons who are otherwise eligible for assistance under this
7 Article.

8 Notwithstanding any other provision of this Code, the
9 Illinois Department may not require, as a condition of payment
10 for any laboratory test authorized under this Article, that a
11 physician's handwritten signature appear on the laboratory
12 test order form. The Illinois Department may, however, impose
13 other appropriate requirements regarding laboratory test order
14 documentation.

15 Upon receipt of federal approval of an amendment to the
16 Illinois Title XIX State Plan for this purpose, the Department
17 shall authorize the Chicago Public Schools (CPS) to procure a
18 vendor or vendors to manufacture eyeglasses for individuals
19 enrolled in a school within the CPS system. CPS shall ensure
20 that its vendor or vendors are enrolled as providers in the
21 medical assistance program and in any capitated Medicaid
22 managed care entity (MCE) serving individuals enrolled in a
23 school within the CPS system. Under any contract procured under
24 this provision, the vendor or vendors must serve only
25 individuals enrolled in a school within the CPS system. Claims
26 for services provided by CPS's vendor or vendors to recipients

1 of benefits in the medical assistance program under this Code,
2 the Children's Health Insurance Program, or the Covering ALL
3 KIDS Health Insurance Program shall be submitted to the
4 Department or the MCE in which the individual is enrolled for
5 payment and shall be reimbursed at the Department's or the
6 MCE's established rates or rate methodologies for eyeglasses.

7 On and after July 1, 2012, the Department of Healthcare and
8 Family Services may provide the following services to persons
9 eligible for assistance under this Article who are
10 participating in education, training or employment programs
11 operated by the Department of Human Services as successor to
12 the Department of Public Aid:

13 (1) dental services provided by or under the
14 supervision of a dentist; and

15 (2) eyeglasses prescribed by a physician skilled in the
16 diseases of the eye, or by an optometrist, whichever the
17 person may select.

18 Notwithstanding any other provision of this Code and
19 subject to federal approval, the Department may adopt rules to
20 allow a dentist who is volunteering his or her service at no
21 cost to render dental services through an enrolled
22 not-for-profit health clinic without the dentist personally
23 enrolling as a participating provider in the medical assistance
24 program. A not-for-profit health clinic shall include a public
25 health clinic or Federally Qualified Health Center or other
26 enrolled provider, as determined by the Department, through

1 which dental services covered under this Section are performed.
2 The Department shall establish a process for payment of claims
3 for reimbursement for covered dental services rendered under
4 this provision.

5 The Illinois Department, by rule, may distinguish and
6 classify the medical services to be provided only in accordance
7 with the classes of persons designated in Section 5-2.

8 The Department of Healthcare and Family Services must
9 provide coverage and reimbursement for amino acid-based
10 elemental formulas, regardless of delivery method, for the
11 diagnosis and treatment of (i) eosinophilic disorders and (ii)
12 short bowel syndrome when the prescribing physician has issued
13 a written order stating that the amino acid-based elemental
14 formula is medically necessary.

15 The Illinois Department shall authorize the provision of,
16 and shall authorize payment for, screening by low-dose
17 mammography for the presence of occult breast cancer for women
18 35 years of age or older who are eligible for medical
19 assistance under this Article, as follows:

20 (A) A baseline mammogram for women 35 to 39 years of
21 age.

22 (B) An annual mammogram for women 40 years of age or
23 older.

24 (C) A mammogram at the age and intervals considered
25 medically necessary by the woman's health care provider for
26 women under 40 years of age and having a family history of

1 breast cancer, prior personal history of breast cancer,
2 positive genetic testing, or other risk factors.

3 (D) A comprehensive ultrasound screening of an entire
4 breast or breasts if a mammogram demonstrates
5 heterogeneous or dense breast tissue, when medically
6 necessary as determined by a physician licensed to practice
7 medicine in all of its branches.

8 All screenings shall include a physical breast exam,
9 instruction on self-examination and information regarding the
10 frequency of self-examination and its value as a preventative
11 tool. For purposes of this Section, "low-dose mammography"
12 means the x-ray examination of the breast using equipment
13 dedicated specifically for mammography, including the x-ray
14 tube, filter, compression device, and image receptor, with an
15 average radiation exposure delivery of less than one rad per
16 breast for 2 views of an average size breast. The term also
17 includes digital mammography.

18 On and after January 1, 2012, providers participating in a
19 quality improvement program approved by the Department shall be
20 reimbursed for screening and diagnostic mammography at the same
21 rate as the Medicare program's rates, including the increased
22 reimbursement for digital mammography.

23 The Department shall convene an expert panel including
24 representatives of hospitals, free-standing mammography
25 facilities, and doctors, including radiologists, to establish
26 quality standards.

1 Subject to federal approval, the Department shall
2 establish a rate methodology for mammography at federally
3 qualified health centers and other encounter-rate clinics.
4 These clinics or centers may also collaborate with other
5 hospital-based mammography facilities.

6 The Department shall establish a methodology to remind
7 women who are age-appropriate for screening mammography, but
8 who have not received a mammogram within the previous 18
9 months, of the importance and benefit of screening mammography.

10 The Department shall establish a performance goal for
11 primary care providers with respect to their female patients
12 over age 40 receiving an annual mammogram. This performance
13 goal shall be used to provide additional reimbursement in the
14 form of a quality performance bonus to primary care providers
15 who meet that goal.

16 The Department shall devise a means of case-managing or
17 patient navigation for beneficiaries diagnosed with breast
18 cancer. This program shall initially operate as a pilot program
19 in areas of the State with the highest incidence of mortality
20 related to breast cancer. At least one pilot program site shall
21 be in the metropolitan Chicago area and at least one site shall
22 be outside the metropolitan Chicago area. An evaluation of the
23 pilot program shall be carried out measuring health outcomes
24 and cost of care for those served by the pilot program compared
25 to similarly situated patients who are not served by the pilot
26 program.

1 Any medical or health care provider shall immediately
2 recommend, to any pregnant woman who is being provided prenatal
3 services and is suspected of drug abuse or is addicted as
4 defined in the Alcoholism and Other Drug Abuse and Dependency
5 Act, referral to a local substance abuse treatment provider
6 licensed by the Department of Human Services or to a licensed
7 hospital which provides substance abuse treatment services.
8 The Department of Healthcare and Family Services shall assure
9 coverage for the cost of treatment of the drug abuse or
10 addiction for pregnant recipients in accordance with the
11 Illinois Medicaid Program in conjunction with the Department of
12 Human Services.

13 All medical providers providing medical assistance to
14 pregnant women under this Code shall receive information from
15 the Department on the availability of services under the Drug
16 Free Families with a Future or any comparable program providing
17 case management services for addicted women, including
18 information on appropriate referrals for other social services
19 that may be needed by addicted women in addition to treatment
20 for addiction.

21 The Illinois Department, in cooperation with the
22 Departments of Human Services (as successor to the Department
23 of Alcoholism and Substance Abuse) and Public Health, through a
24 public awareness campaign, may provide information concerning
25 treatment for alcoholism and drug abuse and addiction, prenatal
26 health care, and other pertinent programs directed at reducing

1 the number of drug-affected infants born to recipients of
2 medical assistance.

3 Neither the Department of Healthcare and Family Services
4 nor the Department of Human Services shall sanction the
5 recipient solely on the basis of her substance abuse.

6 The Illinois Department shall establish such regulations
7 governing the dispensing of health services under this Article
8 as it shall deem appropriate. The Department should seek the
9 advice of formal professional advisory committees appointed by
10 the Director of the Illinois Department for the purpose of
11 providing regular advice on policy and administrative matters,
12 information dissemination and educational activities for
13 medical and health care providers, and consistency in
14 procedures to the Illinois Department.

15 The Illinois Department may develop and contract with
16 Partnerships of medical providers to arrange medical services
17 for persons eligible under Section 5-2 of this Code.
18 Implementation of this Section may be by demonstration projects
19 in certain geographic areas. The Partnership shall be
20 represented by a sponsor organization. The Department, by rule,
21 shall develop qualifications for sponsors of Partnerships.
22 Nothing in this Section shall be construed to require that the
23 sponsor organization be a medical organization.

24 The sponsor must negotiate formal written contracts with
25 medical providers for physician services, inpatient and
26 outpatient hospital care, home health services, treatment for

1 alcoholism and substance abuse, and other services determined
2 necessary by the Illinois Department by rule for delivery by
3 Partnerships. Physician services must include prenatal and
4 obstetrical care. The Illinois Department shall reimburse
5 medical services delivered by Partnership providers to clients
6 in target areas according to provisions of this Article and the
7 Illinois Health Finance Reform Act, except that:

8 (1) Physicians participating in a Partnership and
9 providing certain services, which shall be determined by
10 the Illinois Department, to persons in areas covered by the
11 Partnership may receive an additional surcharge for such
12 services.

13 (2) The Department may elect to consider and negotiate
14 financial incentives to encourage the development of
15 Partnerships and the efficient delivery of medical care.

16 (3) Persons receiving medical services through
17 Partnerships may receive medical and case management
18 services above the level usually offered through the
19 medical assistance program.

20 Medical providers shall be required to meet certain
21 qualifications to participate in Partnerships to ensure the
22 delivery of high quality medical services. These
23 qualifications shall be determined by rule of the Illinois
24 Department and may be higher than qualifications for
25 participation in the medical assistance program. Partnership
26 sponsors may prescribe reasonable additional qualifications

1 for participation by medical providers, only with the prior
2 written approval of the Illinois Department.

3 Nothing in this Section shall limit the free choice of
4 practitioners, hospitals, and other providers of medical
5 services by clients. In order to ensure patient freedom of
6 choice, the Illinois Department shall immediately promulgate
7 all rules and take all other necessary actions so that provided
8 services may be accessed from therapeutically certified
9 optometrists to the full extent of the Illinois Optometric
10 Practice Act of 1987 without discriminating between service
11 providers.

12 The Department shall apply for a waiver from the United
13 States Health Care Financing Administration to allow for the
14 implementation of Partnerships under this Section.

15 The Illinois Department shall require health care
16 providers to maintain records that document the medical care
17 and services provided to recipients of Medical Assistance under
18 this Article. Such records must be retained for a period of not
19 less than 6 years from the date of service or as provided by
20 applicable State law, whichever period is longer, except that
21 if an audit is initiated within the required retention period
22 then the records must be retained until the audit is completed
23 and every exception is resolved. The Illinois Department shall
24 require health care providers to make available, when
25 authorized by the patient, in writing, the medical records in a
26 timely fashion to other health care providers who are treating

1 or serving persons eligible for Medical Assistance under this
2 Article. All dispensers of medical services shall be required
3 to maintain and retain business and professional records
4 sufficient to fully and accurately document the nature, scope,
5 details and receipt of the health care provided to persons
6 eligible for medical assistance under this Code, in accordance
7 with regulations promulgated by the Illinois Department. The
8 rules and regulations shall require that proof of the receipt
9 of prescription drugs, dentures, prosthetic devices and
10 eyeglasses by eligible persons under this Section accompany
11 each claim for reimbursement submitted by the dispenser of such
12 medical services. No such claims for reimbursement shall be
13 approved for payment by the Illinois Department without such
14 proof of receipt, unless the Illinois Department shall have put
15 into effect and shall be operating a system of post-payment
16 audit and review which shall, on a sampling basis, be deemed
17 adequate by the Illinois Department to assure that such drugs,
18 dentures, prosthetic devices and eyeglasses for which payment
19 is being made are actually being received by eligible
20 recipients. Within 90 days after the effective date of this
21 amendatory Act of 1984, the Illinois Department shall establish
22 a current list of acquisition costs for all prosthetic devices
23 and any other items recognized as medical equipment and
24 supplies reimbursable under this Article and shall update such
25 list on a quarterly basis, except that the acquisition costs of
26 all prescription drugs shall be updated no less frequently than

1 every 30 days as required by Section 5-5.12.

2 The rules and regulations of the Illinois Department shall
3 require that a written statement including the required opinion
4 of a physician shall accompany any claim for reimbursement for
5 abortions, or induced miscarriages or premature births. This
6 statement shall indicate what procedures were used in providing
7 such medical services.

8 Notwithstanding any other law to the contrary, the Illinois
9 Department shall, within 365 days after July 22, 2013~~7~~ (the
10 effective date of Public Act 98-104), establish procedures to
11 permit skilled care facilities licensed under the Nursing Home
12 Care Act to submit monthly billing claims for reimbursement
13 purposes. Following development of these procedures, the
14 Department shall have an additional 365 days to test the
15 viability of the new system and to ensure that any necessary
16 operational or structural changes to its information
17 technology platforms are implemented.

18 Notwithstanding any other law to the contrary, the Illinois
19 Department shall, within 365 days after August 15, 2014 (the
20 effective date of Public Act 98-963) ~~this amendatory Act of the~~
21 ~~98th General Assembly~~, establish procedures to permit ID/DD
22 facilities licensed under the ID/DD Community Care Act and
23 MC/DD facilities licensed under the MC/DD Act to submit monthly
24 billing claims for reimbursement purposes. Following
25 development of these procedures, the Department shall have an
26 additional 365 days to test the viability of the new system and

1 to ensure that any necessary operational or structural changes
2 to its information technology platforms are implemented.

3 The Illinois Department shall require all dispensers of
4 medical services, other than an individual practitioner or
5 group of practitioners, desiring to participate in the Medical
6 Assistance program established under this Article to disclose
7 all financial, beneficial, ownership, equity, surety or other
8 interests in any and all firms, corporations, partnerships,
9 associations, business enterprises, joint ventures, agencies,
10 institutions or other legal entities providing any form of
11 health care services in this State under this Article.

12 The Illinois Department may require that all dispensers of
13 medical services desiring to participate in the medical
14 assistance program established under this Article disclose,
15 under such terms and conditions as the Illinois Department may
16 by rule establish, all inquiries from clients and attorneys
17 regarding medical bills paid by the Illinois Department, which
18 inquiries could indicate potential existence of claims or liens
19 for the Illinois Department.

20 Enrollment of a vendor shall be subject to a provisional
21 period and shall be conditional for one year. During the period
22 of conditional enrollment, the Department may terminate the
23 vendor's eligibility to participate in, or may disenroll the
24 vendor from, the medical assistance program without cause.
25 Unless otherwise specified, such termination of eligibility or
26 disenrollment is not subject to the Department's hearing

1 process. However, a disenrolled vendor may reapply without
2 penalty.

3 The Department has the discretion to limit the conditional
4 enrollment period for vendors based upon category of risk of
5 the vendor.

6 Prior to enrollment and during the conditional enrollment
7 period in the medical assistance program, all vendors shall be
8 subject to enhanced oversight, screening, and review based on
9 the risk of fraud, waste, and abuse that is posed by the
10 category of risk of the vendor. The Illinois Department shall
11 establish the procedures for oversight, screening, and review,
12 which may include, but need not be limited to: criminal and
13 financial background checks; fingerprinting; license,
14 certification, and authorization verifications; unscheduled or
15 unannounced site visits; database checks; prepayment audit
16 reviews; audits; payment caps; payment suspensions; and other
17 screening as required by federal or State law.

18 The Department shall define or specify the following: (i)
19 by provider notice, the "category of risk of the vendor" for
20 each type of vendor, which shall take into account the level of
21 screening applicable to a particular category of vendor under
22 federal law and regulations; (ii) by rule or provider notice,
23 the maximum length of the conditional enrollment period for
24 each category of risk of the vendor; and (iii) by rule, the
25 hearing rights, if any, afforded to a vendor in each category
26 of risk of the vendor that is terminated or disenrolled during

1 the conditional enrollment period.

2 To be eligible for payment consideration, a vendor's
3 payment claim or bill, either as an initial claim or as a
4 resubmitted claim following prior rejection, must be received
5 by the Illinois Department, or its fiscal intermediary, no
6 later than 180 days after the latest date on the claim on which
7 medical goods or services were provided, with the following
8 exceptions:

9 (1) In the case of a provider whose enrollment is in
10 process by the Illinois Department, the 180-day period
11 shall not begin until the date on the written notice from
12 the Illinois Department that the provider enrollment is
13 complete.

14 (2) In the case of errors attributable to the Illinois
15 Department or any of its claims processing intermediaries
16 which result in an inability to receive, process, or
17 adjudicate a claim, the 180-day period shall not begin
18 until the provider has been notified of the error.

19 (3) In the case of a provider for whom the Illinois
20 Department initiates the monthly billing process.

21 (4) In the case of a provider operated by a unit of
22 local government with a population exceeding 3,000,000
23 when local government funds finance federal participation
24 for claims payments.

25 For claims for services rendered during a period for which
26 a recipient received retroactive eligibility, claims must be

1 filed within 180 days after the Department determines the
2 applicant is eligible. For claims for which the Illinois
3 Department is not the primary payer, claims must be submitted
4 to the Illinois Department within 180 days after the final
5 adjudication by the primary payer.

6 In the case of long term care facilities, within 5 days of
7 receipt by the facility of required prescreening information,
8 data for new admissions shall be entered into the Medical
9 Electronic Data Interchange (MEDI) or the Recipient
10 Eligibility Verification (REV) System or successor system, and
11 within 15 days of receipt by the facility of required
12 prescreening information, admission documents shall be
13 submitted through MEDI or REV or shall be submitted directly to
14 the Department of Human Services using required admission
15 forms. Effective September 1, 2014, admission documents,
16 including all prescreening information, must be submitted
17 through MEDI or REV. Confirmation numbers assigned to an
18 accepted transaction shall be retained by a facility to verify
19 timely submittal. Once an admission transaction has been
20 completed, all resubmitted claims following prior rejection
21 are subject to receipt no later than 180 days after the
22 admission transaction has been completed.

23 Claims that are not submitted and received in compliance
24 with the foregoing requirements shall not be eligible for
25 payment under the medical assistance program, and the State
26 shall have no liability for payment of those claims.

1 To the extent consistent with applicable information and
2 privacy, security, and disclosure laws, State and federal
3 agencies and departments shall provide the Illinois Department
4 access to confidential and other information and data necessary
5 to perform eligibility and payment verifications and other
6 Illinois Department functions. This includes, but is not
7 limited to: information pertaining to licensure;
8 certification; earnings; immigration status; citizenship; wage
9 reporting; unearned and earned income; pension income;
10 employment; supplemental security income; social security
11 numbers; National Provider Identifier (NPI) numbers; the
12 National Practitioner Data Bank (NPDB); program and agency
13 exclusions; taxpayer identification numbers; tax delinquency;
14 corporate information; and death records.

15 The Illinois Department shall enter into agreements with
16 State agencies and departments, and is authorized to enter into
17 agreements with federal agencies and departments, under which
18 such agencies and departments shall share data necessary for
19 medical assistance program integrity functions and oversight.
20 The Illinois Department shall develop, in cooperation with
21 other State departments and agencies, and in compliance with
22 applicable federal laws and regulations, appropriate and
23 effective methods to share such data. At a minimum, and to the
24 extent necessary to provide data sharing, the Illinois
25 Department shall enter into agreements with State agencies and
26 departments, and is authorized to enter into agreements with

1 federal agencies and departments, including but not limited to:
2 the Secretary of State; the Department of Revenue; the
3 Department of Public Health; the Department of Human Services;
4 and the Department of Financial and Professional Regulation.

5 Beginning in fiscal year 2013, the Illinois Department
6 shall set forth a request for information to identify the
7 benefits of a pre-payment, post-adjudication, and post-edit
8 claims system with the goals of streamlining claims processing
9 and provider reimbursement, reducing the number of pending or
10 rejected claims, and helping to ensure a more transparent
11 adjudication process through the utilization of: (i) provider
12 data verification and provider screening technology; and (ii)
13 clinical code editing; and (iii) pre-pay, pre- or
14 post-adjudicated predictive modeling with an integrated case
15 management system with link analysis. Such a request for
16 information shall not be considered as a request for proposal
17 or as an obligation on the part of the Illinois Department to
18 take any action or acquire any products or services.

19 The Illinois Department shall establish policies,
20 procedures, standards and criteria by rule for the acquisition,
21 repair and replacement of orthotic and prosthetic devices and
22 durable medical equipment. Such rules shall provide, but not be
23 limited to, the following services: (1) immediate repair or
24 replacement of such devices by recipients; and (2) rental,
25 lease, purchase or lease-purchase of durable medical equipment
26 in a cost-effective manner, taking into consideration the

1 recipient's medical prognosis, the extent of the recipient's
2 needs, and the requirements and costs for maintaining such
3 equipment. Subject to prior approval, such rules shall enable a
4 recipient to temporarily acquire and use alternative or
5 substitute devices or equipment pending repairs or
6 replacements of any device or equipment previously authorized
7 for such recipient by the Department.

8 The Department shall execute, relative to the nursing home
9 prescreening project, written inter-agency agreements with the
10 Department of Human Services and the Department on Aging, to
11 effect the following: (i) intake procedures and common
12 eligibility criteria for those persons who are receiving
13 non-institutional services; and (ii) the establishment and
14 development of non-institutional services in areas of the State
15 where they are not currently available or are undeveloped; and
16 (iii) notwithstanding any other provision of law, subject to
17 federal approval, on and after July 1, 2012, an increase in the
18 determination of need (DON) scores from 29 to 37 for applicants
19 for institutional and home and community-based long term care;
20 if and only if federal approval is not granted, the Department
21 may, in conjunction with other affected agencies, implement
22 utilization controls or changes in benefit packages to
23 effectuate a similar savings amount for this population; and
24 (iv) no later than July 1, 2013, minimum level of care
25 eligibility criteria for institutional and home and
26 community-based long term care; and (v) no later than October

1 1, 2013, establish procedures to permit long term care
2 providers access to eligibility scores for individuals with an
3 admission date who are seeking or receiving services from the
4 long term care provider. In order to select the minimum level
5 of care eligibility criteria, the Governor shall establish a
6 workgroup that includes affected agency representatives and
7 stakeholders representing the institutional and home and
8 community-based long term care interests. This Section shall
9 not restrict the Department from implementing lower level of
10 care eligibility criteria for community-based services in
11 circumstances where federal approval has been granted.

12 The Illinois Department shall develop and operate, in
13 cooperation with other State Departments and agencies and in
14 compliance with applicable federal laws and regulations,
15 appropriate and effective systems of health care evaluation and
16 programs for monitoring of utilization of health care services
17 and facilities, as it affects persons eligible for medical
18 assistance under this Code.

19 The Illinois Department shall report annually to the
20 General Assembly, no later than the second Friday in April of
21 1979 and each year thereafter, in regard to:

22 (a) actual statistics and trends in utilization of
23 medical services by public aid recipients;

24 (b) actual statistics and trends in the provision of
25 the various medical services by medical vendors;

26 (c) current rate structures and proposed changes in

1 those rate structures for the various medical vendors; and
2 (d) efforts at utilization review and control by the
3 Illinois Department.

4 The period covered by each report shall be the 3 years
5 ending on the June 30 prior to the report. The report shall
6 include suggested legislation for consideration by the General
7 Assembly. The filing of one copy of the report with the
8 Speaker, one copy with the Minority Leader and one copy with
9 the Clerk of the House of Representatives, one copy with the
10 President, one copy with the Minority Leader and one copy with
11 the Secretary of the Senate, one copy with the Legislative
12 Research Unit, and such additional copies with the State
13 Government Report Distribution Center for the General Assembly
14 as is required under paragraph (t) of Section 7 of the State
15 Library Act shall be deemed sufficient to comply with this
16 Section.

17 Rulemaking authority to implement Public Act 95-1045, if
18 any, is conditioned on the rules being adopted in accordance
19 with all provisions of the Illinois Administrative Procedure
20 Act and all rules and procedures of the Joint Committee on
21 Administrative Rules; any purported rule not so adopted, for
22 whatever reason, is unauthorized.

23 On and after July 1, 2012, the Department shall reduce any
24 rate of reimbursement for services or other payments or alter
25 any methodologies authorized by this Code to reduce any rate of
26 reimbursement for services or other payments in accordance with

1 Section 5-5e.

2 Because kidney transplantation can be an appropriate, cost
3 effective alternative to renal dialysis when medically
4 necessary and notwithstanding the provisions of Section 1-11 of
5 this Code, beginning October 1, 2014, the Department shall
6 cover kidney transplantation for noncitizens with end-stage
7 renal disease who are not eligible for comprehensive medical
8 benefits, who meet the residency requirements of Section 5-3 of
9 this Code, and who would otherwise meet the financial
10 requirements of the appropriate class of eligible persons under
11 Section 5-2 of this Code. To qualify for coverage of kidney
12 transplantation, such person must be receiving emergency renal
13 dialysis services covered by the Department. Providers under
14 this Section shall be prior approved and certified by the
15 Department to perform kidney transplantation and the services
16 under this Section shall be limited to services associated with
17 kidney transplantation.

18 (Source: P.A. 97-48, eff. 6-28-11; 97-638, eff. 1-1-12; 97-689,
19 eff. 6-14-12; 97-1061, eff. 8-24-12; 98-104, Article 9, Section
20 9-5, eff. 7-22-13; 98-104, Article 12, Section 12-20, eff.
21 7-22-13; 98-303, eff. 8-9-13; 98-463, eff. 8-16-13; 98-651,
22 eff. 6-16-14; 98-756, eff. 7-16-14; 98-963, eff. 8-15-14;
23 revised 10-2-14.)

24 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

25 Sec. 5-5.7. Cost Reports - Audits. The Department of

1 Healthcare and Family Services shall work with the Department
2 of Public Health to use cost report information currently being
3 collected under provisions of the Nursing Home Care Act, the
4 Specialized Mental Health Rehabilitation Act of 2013, ~~and~~ the
5 ID/DD Community Care Act, and the MC/DD Act. The Department of
6 Healthcare and Family Services may, in conjunction with the
7 Department of Public Health, develop in accordance with
8 generally accepted accounting principles a uniform chart of
9 accounts which each facility providing services under the
10 medical assistance program shall adopt, after a reasonable
11 period.

12 Facilities licensed under the Nursing Home Care Act, the
13 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
14 ID/DD Community Care Act, or the MC/DD Act and providers of
15 adult developmental training services certified by the
16 Department of Human Services pursuant to Section 15.2 of the
17 Mental Health and Developmental Disabilities Administrative
18 Act which provide services to clients eligible for medical
19 assistance under this Article are responsible for submitting
20 the required annual cost report to the Department of Healthcare
21 and Family Services.

22 The Department of Healthcare and Family Services shall
23 audit the financial and statistical records of each provider
24 participating in the medical assistance program as a nursing
25 facility, a specialized mental health rehabilitation facility,
26 or an ICF/DD over a 3 year period, beginning with the close of

1 the first cost reporting year. Following the end of this 3-year
2 term, audits of the financial and statistical records will be
3 performed each year in at least 20% of the facilities
4 participating in the medical assistance program with at least
5 10% being selected on a random sample basis, and the remainder
6 selected on the basis of exceptional profiles. All audits shall
7 be conducted in accordance with generally accepted auditing
8 standards.

9 The Department of Healthcare and Family Services shall
10 establish prospective payment rates for categories or levels of
11 services within each licensure class, in order to more
12 appropriately recognize the individual needs of patients in
13 nursing facilities.

14 The Department of Healthcare and Family Services shall
15 provide, during the process of establishing the payment rate
16 for nursing facility, specialized mental health rehabilitation
17 facility, or ICF/DD services, or when a substantial change in
18 rates is proposed, an opportunity for public review and comment
19 on the proposed rates prior to their becoming effective.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 98-104, eff. 7-22-13.)

22 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

23 Sec. 5-5.12. Pharmacy payments.

24 (a) Every request submitted by a pharmacy for reimbursement
25 under this Article for prescription drugs provided to a

1 recipient of aid under this Article shall include the name of
2 the prescriber or an acceptable identification number as
3 established by the Department.

4 (b) Pharmacies providing prescription drugs under this
5 Article shall be reimbursed at a rate which shall include a
6 professional dispensing fee as determined by the Illinois
7 Department, plus the current acquisition cost of the
8 prescription drug dispensed. The Illinois Department shall
9 update its information on the acquisition costs of all
10 prescription drugs no less frequently than every 30 days.
11 However, the Illinois Department may set the rate of
12 reimbursement for the acquisition cost, by rule, at a
13 percentage of the current average wholesale acquisition cost.

14 (c) (Blank).

15 (d) The Department shall review utilization of narcotic
16 medications in the medical assistance program and impose
17 utilization controls that protect against abuse.

18 (e) When making determinations as to which drugs shall be
19 on a prior approval list, the Department shall include as part
20 of the analysis for this determination, the degree to which a
21 drug may affect individuals in different ways based on factors
22 including the gender of the person taking the medication.

23 (f) The Department shall cooperate with the Department of
24 Public Health and the Department of Human Services Division of
25 Mental Health in identifying psychotropic medications that,
26 when given in a particular form, manner, duration, or frequency

1 (including "as needed") in a dosage, or in conjunction with
2 other psychotropic medications to a nursing home resident or to
3 a resident of a facility licensed under the ID/DD Community
4 Care Act or the MC/DD Act, may constitute a chemical restraint
5 or an "unnecessary drug" as defined by the Nursing Home Care
6 Act or Titles XVIII and XIX of the Social Security Act and the
7 implementing rules and regulations. The Department shall
8 require prior approval for any such medication prescribed for a
9 nursing home resident or to a resident of a facility licensed
10 under the ID/DD Community Care Act or the MC/DD Act, that
11 appears to be a chemical restraint or an unnecessary drug. The
12 Department shall consult with the Department of Human Services
13 Division of Mental Health in developing a protocol and criteria
14 for deciding whether to grant such prior approval.

15 (g) The Department may by rule provide for reimbursement of
16 the dispensing of a 90-day supply of a generic or brand name,
17 non-narcotic maintenance medication in circumstances where it
18 is cost effective.

19 (g-5) On and after July 1, 2012, the Department may require
20 the dispensing of drugs to nursing home residents be in a 7-day
21 supply or other amount less than a 31-day supply. The
22 Department shall pay only one dispensing fee per 31-day supply.

23 (h) Effective July 1, 2011, the Department shall
24 discontinue coverage of select over-the-counter drugs,
25 including analgesics and cough and cold and allergy
26 medications.

1 (h-5) On and after July 1, 2012, the Department shall
2 impose utilization controls, including, but not limited to,
3 prior approval on specialty drugs, oncolytic drugs, drugs for
4 the treatment of HIV or AIDS, immunosuppressant drugs, and
5 biological products in order to maximize savings on these
6 drugs. The Department may adjust payment methodologies for
7 non-pharmacy billed drugs in order to incentivize the selection
8 of lower-cost drugs. For drugs for the treatment of AIDS, the
9 Department shall take into consideration the potential for
10 non-adherence by certain populations, and shall develop
11 protocols with organizations or providers primarily serving
12 those with HIV/AIDS, as long as such measures intend to
13 maintain cost neutrality with other utilization management
14 controls such as prior approval. For hemophilia, the Department
15 shall develop a program of utilization review and control which
16 may include, in the discretion of the Department, prior
17 approvals. The Department may impose special standards on
18 providers that dispense blood factors which shall include, in
19 the discretion of the Department, staff training and education;
20 patient outreach and education; case management; in-home
21 patient assessments; assay management; maintenance of stock;
22 emergency dispensing timeframes; data collection and
23 reporting; dispensing of supplies related to blood factor
24 infusions; cold chain management and packaging practices; care
25 coordination; product recalls; and emergency clinical
26 consultation. The Department may require patients to receive a

1 comprehensive examination annually at an appropriate provider
2 in order to be eligible to continue to receive blood factor.

3 (i) On and after July 1, 2012, the Department shall reduce
4 any rate of reimbursement for services or other payments or
5 alter any methodologies authorized by this Code to reduce any
6 rate of reimbursement for services or other payments in
7 accordance with Section 5-5e.

8 (j) On and after July 1, 2012, the Department shall impose
9 limitations on prescription drugs such that the Department
10 shall not provide reimbursement for more than 4 prescriptions,
11 including 3 brand name prescriptions, for distinct drugs in a
12 30-day period, unless prior approval is received for all
13 prescriptions in excess of the 4-prescription limit. Drugs in
14 the following therapeutic classes shall not be subject to prior
15 approval as a result of the 4-prescription limit:
16 immunosuppressant drugs, oncolytic drugs, anti-retroviral
17 drugs, and, on or after July 1, 2014, antipsychotic drugs. On
18 or after July 1, 2014, the Department may exempt children with
19 complex medical needs enrolled in a care coordination entity
20 contracted with the Department to solely coordinate care for
21 such children, if the Department determines that the entity has
22 a comprehensive drug reconciliation program.

23 (k) No medication therapy management program implemented
24 by the Department shall be contrary to the provisions of the
25 Pharmacy Practice Act.

26 (l) Any provider enrolled with the Department that bills

1 the Department for outpatient drugs and is eligible to enroll
2 in the federal Drug Pricing Program under Section 340B of the
3 federal Public Health Services Act shall enroll in that
4 program. No entity participating in the federal Drug Pricing
5 Program under Section 340B of the federal Public Health
6 Services Act may exclude Medicaid from their participation in
7 that program, although the Department may exclude entities
8 defined in Section 1905(1)(2)(B) of the Social Security Act
9 from this requirement.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-74, eff. 6-30-11; 97-333,
11 eff. 8-12-11; 97-426, eff. 1-1-12; 97-689, eff. 6-14-12;
12 97-813, eff. 7-13-12; 98-463, eff. 8-16-13; 98-651, eff.
13 6-16-14.)

14 (305 ILCS 5/5-5e)

15 (Text of Section before amendment by P.A. 98-1166)

16 Sec. 5-5e. Adjusted rates of reimbursement.

17 (a) Rates or payments for services in effect on June 30,
18 2012 shall be adjusted and services shall be affected as
19 required by any other provision of this amendatory Act of the
20 97th General Assembly. In addition, the Department shall do the
21 following:

22 (1) Delink the per diem rate paid for supportive living
23 facility services from the per diem rate paid for nursing
24 facility services, effective for services provided on or
25 after May 1, 2011.

1 (2) Cease payment for bed reserves in nursing
2 facilities and specialized mental health rehabilitation
3 facilities.

4 (2.5) Cease payment for bed reserves for purposes of
5 inpatient hospitalizations to intermediate care facilities
6 for persons with development disabilities, except in the
7 instance of residents who are under 21 years of age.

8 (3) Cease payment of the \$10 per day add-on payment to
9 nursing facilities for certain residents with
10 developmental disabilities.

11 (b) After the application of subsection (a),
12 notwithstanding any other provision of this Code to the
13 contrary and to the extent permitted by federal law, on and
14 after July 1, 2012, the rates of reimbursement for services and
15 other payments provided under this Code shall further be
16 reduced as follows:

17 (1) Rates or payments for physician services, dental
18 services, or community health center services reimbursed
19 through an encounter rate, and services provided under the
20 Medicaid Rehabilitation Option of the Illinois Title XIX
21 State Plan shall not be further reduced.

22 (2) Rates or payments, or the portion thereof, paid to
23 a provider that is operated by a unit of local government
24 or State University that provides the non-federal share of
25 such services shall not be further reduced.

26 (3) Rates or payments for hospital services delivered

1 by a hospital defined as a Safety-Net Hospital under
2 Section 5-5e.1 of this Code shall not be further reduced.

3 (4) Rates or payments for hospital services delivered
4 by a Critical Access Hospital, which is an Illinois
5 hospital designated as a critical care hospital by the
6 Department of Public Health in accordance with 42 CFR 485,
7 Subpart F, shall not be further reduced.

8 (5) Rates or payments for Nursing Facility Services
9 shall only be further adjusted pursuant to Section 5-5.2 of
10 this Code.

11 (6) Rates or payments for services delivered by long
12 term care facilities licensed under the ID/DD Community
13 Care Act and developmental training services shall not be
14 further reduced.

15 (7) Rates or payments for services provided under
16 capitation rates shall be adjusted taking into
17 consideration the rates reduction and covered services
18 required by this amendatory Act of the 97th General
19 Assembly.

20 (8) For hospitals not previously described in this
21 subsection, the rates or payments for hospital services
22 shall be further reduced by 3.5%, except for payments
23 authorized under Section 5A-12.4 of this Code.

24 (9) For all other rates or payments for services
25 delivered by providers not specifically referenced in
26 paragraphs (1) through (8), rates or payments shall be

1 further reduced by 2.7%.

2 (c) Any assessment imposed by this Code shall continue and
3 nothing in this Section shall be construed to cause it to
4 cease.

5 (d) Notwithstanding any other provision of this Code to the
6 contrary, subject to federal approval under Title XIX of the
7 Social Security Act, for dates of service on and after July 1,
8 2014, rates or payments for services provided for the purpose
9 of transitioning children from a hospital to home placement or
10 other appropriate setting by a children's community-based
11 health care center authorized under the Alternative Health Care
12 Delivery Act shall be \$683 per day.

13 (e) Notwithstanding any other provision of this Code to the
14 contrary, subject to federal approval under Title XIX of the
15 Social Security Act, for dates of service on and after July 1,
16 2014, rates or payments for home health visits shall be \$72.

17 (f) Notwithstanding any other provision of this Code to the
18 contrary, subject to federal approval under Title XIX of the
19 Social Security Act, for dates of service on and after July 1,
20 2014, rates or payments for the certified nursing assistant
21 component of the home health agency rate shall be \$20.

22 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13;
23 98-651, eff. 6-16-14.)

24 (Text of Section after amendment by P.A. 98-1166)

25 Sec. 5-5e. Adjusted rates of reimbursement.

1 (a) Rates or payments for services in effect on June 30,
2 2012 shall be adjusted and services shall be affected as
3 required by any other provision of this amendatory Act of the
4 97th General Assembly. In addition, the Department shall do the
5 following:

6 (1) Delink the per diem rate paid for supportive living
7 facility services from the per diem rate paid for nursing
8 facility services, effective for services provided on or
9 after May 1, 2011.

10 (2) Cease payment for bed reserves in nursing
11 facilities and specialized mental health rehabilitation
12 facilities; for purposes of therapeutic home visits for
13 individuals scoring as TBI on the MDS 3.0, beginning June
14 1, 2015, the Department shall approve payments for bed
15 reserves in nursing facilities and specialized mental
16 health rehabilitation facilities that have at least a 90%
17 occupancy level and at least 80% of their residents are
18 Medicaid eligible. Payment shall be at a daily rate of 75%
19 of an individual's current Medicaid per diem and shall not
20 exceed 10 days in a calendar month.

21 (2.5) Cease payment for bed reserves for purposes of
22 inpatient hospitalizations to intermediate care facilities
23 for persons with development disabilities, except in the
24 instance of residents who are under 21 years of age.

25 (3) Cease payment of the \$10 per day add-on payment to
26 nursing facilities for certain residents with

1 developmental disabilities.

2 (b) After the application of subsection (a),
3 notwithstanding any other provision of this Code to the
4 contrary and to the extent permitted by federal law, on and
5 after July 1, 2012, the rates of reimbursement for services and
6 other payments provided under this Code shall further be
7 reduced as follows:

8 (1) Rates or payments for physician services, dental
9 services, or community health center services reimbursed
10 through an encounter rate, and services provided under the
11 Medicaid Rehabilitation Option of the Illinois Title XIX
12 State Plan shall not be further reduced.

13 (2) Rates or payments, or the portion thereof, paid to
14 a provider that is operated by a unit of local government
15 or State University that provides the non-federal share of
16 such services shall not be further reduced.

17 (3) Rates or payments for hospital services delivered
18 by a hospital defined as a Safety-Net Hospital under
19 Section 5-5e.1 of this Code shall not be further reduced.

20 (4) Rates or payments for hospital services delivered
21 by a Critical Access Hospital, which is an Illinois
22 hospital designated as a critical care hospital by the
23 Department of Public Health in accordance with 42 CFR 485,
24 Subpart F, shall not be further reduced.

25 (5) Rates or payments for Nursing Facility Services
26 shall only be further adjusted pursuant to Section 5-5.2 of

1 this Code.

2 (6) Rates or payments for services delivered by long
3 term care facilities licensed under the ID/DD Community
4 Care Act or the MC/DD Act and developmental training
5 services shall not be further reduced.

6 (7) Rates or payments for services provided under
7 capitation rates shall be adjusted taking into
8 consideration the rates reduction and covered services
9 required by this amendatory Act of the 97th General
10 Assembly.

11 (8) For hospitals not previously described in this
12 subsection, the rates or payments for hospital services
13 shall be further reduced by 3.5%, except for payments
14 authorized under Section 5A-12.4 of this Code.

15 (9) For all other rates or payments for services
16 delivered by providers not specifically referenced in
17 paragraphs (1) through (8), rates or payments shall be
18 further reduced by 2.7%.

19 (c) Any assessment imposed by this Code shall continue and
20 nothing in this Section shall be construed to cause it to
21 cease.

22 (d) Notwithstanding any other provision of this Code to the
23 contrary, subject to federal approval under Title XIX of the
24 Social Security Act, for dates of service on and after July 1,
25 2014, rates or payments for services provided for the purpose
26 of transitioning children from a hospital to home placement or

1 other appropriate setting by a children's community-based
2 health care center authorized under the Alternative Health Care
3 Delivery Act shall be \$683 per day.

4 (e) Notwithstanding any other provision of this Code to the
5 contrary, subject to federal approval under Title XIX of the
6 Social Security Act, for dates of service on and after July 1,
7 2014, rates or payments for home health visits shall be \$72.

8 (f) Notwithstanding any other provision of this Code to the
9 contrary, subject to federal approval under Title XIX of the
10 Social Security Act, for dates of service on and after July 1,
11 2014, rates or payments for the certified nursing assistant
12 component of the home health agency rate shall be \$20.

13 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13;
14 98-651, eff. 6-16-14; 98-1166, eff. 6-1-15.)

15 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

16 Sec. 5-6. Obligations incurred prior to death of a
17 recipient. Obligations incurred but not paid for at the time of
18 a recipient's death for services authorized under Section 5-5,
19 including medical and other care in facilities as defined in
20 the Nursing Home Care Act, the Specialized Mental Health
21 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
22 the MC/DD Act, or in like facilities not required to be
23 licensed under that Act, may be paid, subject to the rules and
24 regulations of the Illinois Department, after the death of the
25 recipient.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-104, eff. 7-22-13.)

3 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

4 Sec. 5B-1. Definitions. As used in this Article, unless the
5 context requires otherwise:

6 "Fund" means the Long-Term Care Provider Fund.

7 "Long-term care facility" means (i) a nursing facility,
8 whether public or private and whether organized for profit or
9 not-for-profit, that is subject to licensure by the Illinois
10 Department of Public Health under the Nursing Home Care Act, ~~or~~
11 the ID/DD Community Care Act, or the MC/DD Act, including a
12 county nursing home directed and maintained under Section
13 5-1005 of the Counties Code, and (ii) a part of a hospital in
14 which skilled or intermediate long-term care services within
15 the meaning of Title XVIII or XIX of the Social Security Act
16 are provided; except that the term "long-term care facility"
17 does not include a facility operated by a State agency or
18 operated solely as an intermediate care facility for the
19 mentally retarded within the meaning of Title XIX of the Social
20 Security Act.

21 "Long-term care provider" means (i) a person licensed by
22 the Department of Public Health to operate and maintain a
23 skilled nursing or intermediate long-term care facility or (ii)
24 a hospital provider that provides skilled or intermediate
25 long-term care services within the meaning of Title XVIII or

1 XIX of the Social Security Act. For purposes of this paragraph,
2 "person" means any political subdivision of the State,
3 municipal corporation, individual, firm, partnership,
4 corporation, company, limited liability company, association,
5 joint stock association, or trust, or a receiver, executor,
6 trustee, guardian, or other representative appointed by order
7 of any court. "Hospital provider" means a person licensed by
8 the Department of Public Health to conduct, operate, or
9 maintain a hospital.

10 "Occupied bed days" shall be computed separately for each
11 long-term care facility operated or maintained by a long-term
12 care provider, and means the sum for all beds of the number of
13 days during the month on which each bed was occupied by a
14 resident, other than a resident for whom Medicare Part A is the
15 primary payer. For a resident whose care is covered by the
16 Medicare Medicaid Alignment initiative demonstration, Medicare
17 Part A is considered the primary payer.

18 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
19 eff. 7-13-12; 98-651, eff. 6-16-14.)

20 (305 ILCS 5/5E-5)

21 Sec. 5E-5. Definitions. As used in this Article, unless the
22 context requires otherwise:

23 "Nursing home" means (i) a skilled nursing or intermediate
24 long-term care facility, whether public or private and whether
25 organized for profit or not-for-profit, that is subject to

1 licensure by the Illinois Department of Public Health under the
2 Nursing Home Care Act, ~~or~~ the ID/DD Community Care Act, or the
3 MC/DD Act, including a county nursing home directed and
4 maintained under Section 5-1005 of the Counties Code, and (ii)
5 a part of a hospital in which skilled or intermediate long-term
6 care services within the meaning of Title XVIII or XIX of the
7 Social Security Act are provided; except that the term "nursing
8 home" does not include a facility operated solely as an
9 intermediate care facility for the intellectually disabled
10 within the meaning of Title XIX of the Social Security Act or a
11 specialized mental health rehabilitation facility.

12 "Nursing home provider" means (i) a person licensed by the
13 Department of Public Health to operate and maintain a skilled
14 nursing or intermediate long-term care facility which charges
15 its residents, a third party payor, Medicaid, or Medicare for
16 skilled nursing or intermediate long-term care services, or
17 (ii) a hospital provider that provides skilled or intermediate
18 long-term care services within the meaning of Title XVIII or
19 XIX of the Social Security Act. "Nursing home provider" does
20 not include a person who operates or a provider who provides
21 services within a specialized mental health rehabilitation
22 facility. For purposes of this paragraph, "person" means any
23 political subdivision of the State, municipal corporation,
24 individual, firm, partnership, corporation, company, limited
25 liability company, association, joint stock association, or
26 trust, or a receiver, executor, trustee, guardian, or other

1 representative appointed by order of any court. "Hospital
2 provider" means a person licensed by the Department of Public
3 Health to conduct, operate, or maintain a hospital.

4 "Licensed bed days" shall be computed separately for each
5 nursing home operated or maintained by a nursing home provider
6 and means, with respect to a nursing home provider, the sum for
7 all nursing home beds of the number of days during a calendar
8 quarter on which each bed is covered by a license issued to
9 that provider under the Nursing Home Care Act or the Hospital
10 Licensing Act.

11 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,
12 eff. 1-1-12; 97-813, eff. 7-13-12.)

13 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

14 Sec. 8A-11. (a) No person shall:

15 (1) Knowingly charge a resident of a nursing home for
16 any services provided pursuant to Article V of the Illinois
17 Public Aid Code, money or other consideration at a rate in
18 excess of the rates established for covered services by the
19 Illinois Department pursuant to Article V of the Illinois
20 Public Aid Code; or

21 (2) Knowingly charge, solicit, accept or receive, in
22 addition to any amount otherwise authorized or required to
23 be paid pursuant to Article V of the Illinois Public Aid
24 Code, any gift, money, donation or other consideration:

25 (i) As a precondition to admitting or expediting

1 the admission of a recipient or applicant, pursuant to
2 Article V of the Illinois Public Aid Code, to a
3 long-term care facility as defined in Section 1-113 of
4 the Nursing Home Care Act or a facility as defined in
5 Section 1-113 of the ID/DD Community Care Act, Section
6 1-113 of the MC/DD Act, or Section 1-102 of the
7 Specialized Mental Health Rehabilitation Act of 2013;
8 and

9 (ii) As a requirement for the recipient's or
10 applicant's continued stay in such facility when the
11 cost of the services provided therein to the recipient
12 is paid for, in whole or in part, pursuant to Article V
13 of the Illinois Public Aid Code.

14 (b) Nothing herein shall prohibit a person from making a
15 voluntary contribution, gift or donation to a long-term care
16 facility.

17 (c) This paragraph shall not apply to agreements to provide
18 continuing care or life care between a life care facility as
19 defined by the Life Care Facilities Act, and a person
20 financially eligible for benefits pursuant to Article V of the
21 Illinois Public Aid Code.

22 (d) Any person who violates this Section shall be guilty of
23 a business offense and fined not less than \$5,000 nor more than
24 \$25,000.

25 (e) "Person", as used in this Section, means an individual,
26 corporation, partnership, or unincorporated association.

1 (f) The State's Attorney of the county in which the
2 facility is located and the Attorney General shall be notified
3 by the Illinois Department of any alleged violations of this
4 Section known to the Department.

5 (g) The Illinois Department shall adopt rules and
6 regulations to carry out the provisions of this Section.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 98-104, eff. 7-22-13.)

9 (305 ILCS 5/11-4.1)

10 Sec. 11-4.1. Medical providers assisting with applications
11 for medical assistance. A provider enrolled to provide medical
12 assistance services may, upon the request of an individual,
13 accompany, represent, and assist the individual in applying for
14 medical assistance under Article V of this Code. If an
15 individual is unable to request such assistance due to
16 incapacity or mental incompetence and has no other
17 representative willing or able to assist in the application
18 process, a facility licensed under the Nursing Home Care Act,
19 ~~or~~ the ID/DD Community Care Act, or the MC/DD Act or certified
20 under this Code is authorized to assist the individual in
21 applying for long-term care services. Subject to the provisions
22 of the Free Healthcare Benefits Application Assistance Act,
23 nothing in this Section shall be construed as prohibiting any
24 individual or entity from assisting another individual in
25 applying for medical assistance under Article V of this Code.

1 (Source: P.A. 96-1439, eff. 8-20-10; 97-227, eff. 1-1-12.)

2 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

3 Sec. 12-4.25. Medical assistance program; vendor
4 participation.

5 (A) The Illinois Department may deny, suspend, or terminate
6 the eligibility of any person, firm, corporation, association,
7 agency, institution or other legal entity to participate as a
8 vendor of goods or services to recipients under the medical
9 assistance program under Article V, or may exclude any such
10 person or entity from participation as such a vendor, and may
11 deny, suspend, or recover payments, if after reasonable notice
12 and opportunity for a hearing the Illinois Department finds:

13 (a) Such vendor is not complying with the Department's
14 policy or rules and regulations, or with the terms and
15 conditions prescribed by the Illinois Department in its
16 vendor agreement, which document shall be developed by the
17 Department as a result of negotiations with each vendor
18 category, including physicians, hospitals, long term care
19 facilities, pharmacists, optometrists, podiatric
20 physicians, and dentists setting forth the terms and
21 conditions applicable to the participation of each vendor
22 group in the program; or

23 (b) Such vendor has failed to keep or make available
24 for inspection, audit or copying, after receiving a written
25 request from the Illinois Department, such records

1 regarding payments claimed for providing services. This
2 section does not require vendors to make available patient
3 records of patients for whom services are not reimbursed
4 under this Code; or

5 (c) Such vendor has failed to furnish any information
6 requested by the Department regarding payments for
7 providing goods or services; or

8 (d) Such vendor has knowingly made, or caused to be
9 made, any false statement or representation of a material
10 fact in connection with the administration of the medical
11 assistance program; or

12 (e) Such vendor has furnished goods or services to a
13 recipient which are (1) in excess of need, (2) harmful, or
14 (3) of grossly inferior quality, all of such determinations
15 to be based upon competent medical judgment and
16 evaluations; or

17 (f) The vendor; a person with management
18 responsibility for a vendor; an officer or person owning,
19 either directly or indirectly, 5% or more of the shares of
20 stock or other evidences of ownership in a corporate
21 vendor; an owner of a sole proprietorship which is a
22 vendor; or a partner in a partnership which is a vendor,
23 either:

24 (1) was previously terminated, suspended, or
25 excluded from participation in the Illinois medical
26 assistance program, or was terminated, suspended, or

1 excluded from participation in another state or
2 federal medical assistance or health care program; or

3 (2) was a person with management responsibility
4 for a vendor previously terminated, suspended, or
5 excluded from participation in the Illinois medical
6 assistance program, or terminated, suspended, or
7 excluded from participation in another state or
8 federal medical assistance or health care program
9 during the time of conduct which was the basis for that
10 vendor's termination, suspension, or exclusion; or

11 (3) was an officer, or person owning, either
12 directly or indirectly, 5% or more of the shares of
13 stock or other evidences of ownership in a corporate or
14 limited liability company vendor previously
15 terminated, suspended, or excluded from participation
16 in the Illinois medical assistance program, or
17 terminated, suspended, or excluded from participation
18 in a state or federal medical assistance or health care
19 program during the time of conduct which was the basis
20 for that vendor's termination, suspension, or
21 exclusion; or

22 (4) was an owner of a sole proprietorship or
23 partner of a partnership previously terminated,
24 suspended, or excluded from participation in the
25 Illinois medical assistance program, or terminated,
26 suspended, or excluded from participation in a state or

1 federal medical assistance or health care program
2 during the time of conduct which was the basis for that
3 vendor's termination, suspension, or exclusion; or

4 (f-1) Such vendor has a delinquent debt owed to the
5 Illinois Department; or

6 (g) The vendor; a person with management
7 responsibility for a vendor; an officer or person owning,
8 either directly or indirectly, 5% or more of the shares of
9 stock or other evidences of ownership in a corporate or
10 limited liability company vendor; an owner of a sole
11 proprietorship which is a vendor; or a partner in a
12 partnership which is a vendor, either:

13 (1) has engaged in practices prohibited by
14 applicable federal or State law or regulation; or

15 (2) was a person with management responsibility
16 for a vendor at the time that such vendor engaged in
17 practices prohibited by applicable federal or State
18 law or regulation; or

19 (3) was an officer, or person owning, either
20 directly or indirectly, 5% or more of the shares of
21 stock or other evidences of ownership in a vendor at
22 the time such vendor engaged in practices prohibited by
23 applicable federal or State law or regulation; or

24 (4) was an owner of a sole proprietorship or
25 partner of a partnership which was a vendor at the time
26 such vendor engaged in practices prohibited by

1 applicable federal or State law or regulation; or

2 (h) The direct or indirect ownership of the vendor
3 (including the ownership of a vendor that is a sole
4 proprietorship, a partner's interest in a vendor that is a
5 partnership, or ownership of 5% or more of the shares of
6 stock or other evidences of ownership in a corporate
7 vendor) has been transferred by an individual who is
8 terminated, suspended, or excluded or barred from
9 participating as a vendor to the individual's spouse,
10 child, brother, sister, parent, grandparent, grandchild,
11 uncle, aunt, niece, nephew, cousin, or relative by
12 marriage.

13 (A-5) The Illinois Department may deny, suspend, or
14 terminate the eligibility of any person, firm, corporation,
15 association, agency, institution, or other legal entity to
16 participate as a vendor of goods or services to recipients
17 under the medical assistance program under Article V, or may
18 exclude any such person or entity from participation as such a
19 vendor, if, after reasonable notice and opportunity for a
20 hearing, the Illinois Department finds that the vendor; a
21 person with management responsibility for a vendor; an officer
22 or person owning, either directly or indirectly, 5% or more of
23 the shares of stock or other evidences of ownership in a
24 corporate vendor; an owner of a sole proprietorship that is a
25 vendor; or a partner in a partnership that is a vendor has been
26 convicted of an offense based on fraud or willful

1 misrepresentation related to any of the following:

2 (1) The medical assistance program under Article V of
3 this Code.

4 (2) A medical assistance or health care program in
5 another state.

6 (3) The Medicare program under Title XVIII of the
7 Social Security Act.

8 (4) The provision of health care services.

9 (5) A violation of this Code, as provided in Article
10 VIIIA, or another state or federal medical assistance
11 program or health care program.

12 (A-10) The Illinois Department may deny, suspend, or
13 terminate the eligibility of any person, firm, corporation,
14 association, agency, institution, or other legal entity to
15 participate as a vendor of goods or services to recipients
16 under the medical assistance program under Article V, or may
17 exclude any such person or entity from participation as such a
18 vendor, if, after reasonable notice and opportunity for a
19 hearing, the Illinois Department finds that (i) the vendor,
20 (ii) a person with management responsibility for a vendor,
21 (iii) an officer or person owning, either directly or
22 indirectly, 5% or more of the shares of stock or other
23 evidences of ownership in a corporate vendor, (iv) an owner of
24 a sole proprietorship that is a vendor, or (v) a partner in a
25 partnership that is a vendor has been convicted of an offense
26 related to any of the following:

1 (1) Murder.

2 (2) A Class X felony under the Criminal Code of 1961 or
3 the Criminal Code of 2012.

4 (3) Sexual misconduct that may subject recipients to an
5 undue risk of harm.

6 (4) A criminal offense that may subject recipients to
7 an undue risk of harm.

8 (5) A crime of fraud or dishonesty.

9 (6) A crime involving a controlled substance.

10 (7) A misdemeanor relating to fraud, theft,
11 embezzlement, breach of fiduciary responsibility, or other
12 financial misconduct related to a health care program.

13 (A-15) The Illinois Department may deny the eligibility of
14 any person, firm, corporation, association, agency,
15 institution, or other legal entity to participate as a vendor
16 of goods or services to recipients under the medical assistance
17 program under Article V if, after reasonable notice and
18 opportunity for a hearing, the Illinois Department finds:

19 (1) The applicant or any person with management
20 responsibility for the applicant; an officer or member of
21 the board of directors of an applicant; an entity owning
22 (directly or indirectly) 5% or more of the shares of stock
23 or other evidences of ownership in a corporate vendor
24 applicant; an owner of a sole proprietorship applicant; a
25 partner in a partnership applicant; or a technical or other
26 advisor to an applicant has a debt owed to the Illinois

1 Department, and no payment arrangements acceptable to the
2 Illinois Department have been made by the applicant.

3 (2) The applicant or any person with management
4 responsibility for the applicant; an officer or member of
5 the board of directors of an applicant; an entity owning
6 (directly or indirectly) 5% or more of the shares of stock
7 or other evidences of ownership in a corporate vendor
8 applicant; an owner of a sole proprietorship applicant; a
9 partner in a partnership vendor applicant; or a technical
10 or other advisor to an applicant was (i) a person with
11 management responsibility, (ii) an officer or member of the
12 board of directors of an applicant, (iii) an entity owning
13 (directly or indirectly) 5% or more of the shares of stock
14 or other evidences of ownership in a corporate vendor, (iv)
15 an owner of a sole proprietorship, (v) a partner in a
16 partnership vendor, (vi) a technical or other advisor to a
17 vendor, during a period of time where the conduct of that
18 vendor resulted in a debt owed to the Illinois Department,
19 and no payment arrangements acceptable to the Illinois
20 Department have been made by that vendor.

21 (3) There is a credible allegation of the use,
22 transfer, or lease of assets of any kind to an applicant
23 from a current or prior vendor who has a debt owed to the
24 Illinois Department, no payment arrangements acceptable to
25 the Illinois Department have been made by that vendor or
26 the vendor's alternate payee, and the applicant knows or

1 should have known of such debt.

2 (4) There is a credible allegation of a transfer of
3 management responsibilities, or direct or indirect
4 ownership, to an applicant from a current or prior vendor
5 who has a debt owed to the Illinois Department, and no
6 payment arrangements acceptable to the Illinois Department
7 have been made by that vendor or the vendor's alternate
8 payee, and the applicant knows or should have known of such
9 debt.

10 (5) There is a credible allegation of the use,
11 transfer, or lease of assets of any kind to an applicant
12 who is a spouse, child, brother, sister, parent,
13 grandparent, grandchild, uncle, aunt, niece, relative by
14 marriage, nephew, cousin, or relative of a current or prior
15 vendor who has a debt owed to the Illinois Department and
16 no payment arrangements acceptable to the Illinois
17 Department have been made.

18 (6) There is a credible allegation that the applicant's
19 previous affiliations with a provider of medical services
20 that has an uncollected debt, a provider that has been or
21 is subject to a payment suspension under a federal health
22 care program, or a provider that has been previously
23 excluded from participation in the medical assistance
24 program, poses a risk of fraud, waste, or abuse to the
25 Illinois Department.

26 As used in this subsection, "credible allegation" is

1 defined to include an allegation from any source, including,
2 but not limited to, fraud hotline complaints, claims data
3 mining, patterns identified through provider audits, civil
4 actions filed under the Illinois False Claims Act, and law
5 enforcement investigations. An allegation is considered to be
6 credible when it has indicia of reliability.

7 (B) The Illinois Department shall deny, suspend or
8 terminate the eligibility of any person, firm, corporation,
9 association, agency, institution or other legal entity to
10 participate as a vendor of goods or services to recipients
11 under the medical assistance program under Article V, or may
12 exclude any such person or entity from participation as such a
13 vendor:

14 (1) immediately, if such vendor is not properly
15 licensed, certified, or authorized;

16 (2) within 30 days of the date when such vendor's
17 professional license, certification or other authorization
18 has been refused renewal, restricted, revoked, suspended,
19 or otherwise terminated; or

20 (3) if such vendor has been convicted of a violation of
21 this Code, as provided in Article VIII A.

22 (C) Upon termination, suspension, or exclusion of a vendor
23 of goods or services from participation in the medical
24 assistance program authorized by this Article, a person with
25 management responsibility for such vendor during the time of
26 any conduct which served as the basis for that vendor's

1 termination, suspension, or exclusion is barred from
2 participation in the medical assistance program.

3 Upon termination, suspension, or exclusion of a corporate
4 vendor, the officers and persons owning, directly or
5 indirectly, 5% or more of the shares of stock or other
6 evidences of ownership in the vendor during the time of any
7 conduct which served as the basis for that vendor's
8 termination, suspension, or exclusion are barred from
9 participation in the medical assistance program. A person who
10 owns, directly or indirectly, 5% or more of the shares of stock
11 or other evidences of ownership in a terminated, suspended, or
12 excluded vendor may not transfer his or her ownership interest
13 in that vendor to his or her spouse, child, brother, sister,
14 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
15 cousin, or relative by marriage.

16 Upon termination, suspension, or exclusion of a sole
17 proprietorship or partnership, the owner or partners during the
18 time of any conduct which served as the basis for that vendor's
19 termination, suspension, or exclusion are barred from
20 participation in the medical assistance program. The owner of a
21 terminated, suspended, or excluded vendor that is a sole
22 proprietorship, and a partner in a terminated, suspended, or
23 excluded vendor that is a partnership, may not transfer his or
24 her ownership or partnership interest in that vendor to his or
25 her spouse, child, brother, sister, parent, grandparent,
26 grandchild, uncle, aunt, niece, nephew, cousin, or relative by

1 marriage.

2 A person who owns, directly or indirectly, 5% or more of
3 the shares of stock or other evidences of ownership in a
4 corporate or limited liability company vendor who owes a debt
5 to the Department, if that vendor has not made payment
6 arrangements acceptable to the Department, shall not transfer
7 his or her ownership interest in that vendor, or vendor assets
8 of any kind, to his or her spouse, child, brother, sister,
9 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
10 cousin, or relative by marriage.

11 Rules adopted by the Illinois Department to implement these
12 provisions shall specifically include a definition of the term
13 "management responsibility" as used in this Section. Such
14 definition shall include, but not be limited to, typical job
15 titles, and duties and descriptions which will be considered as
16 within the definition of individuals with management
17 responsibility for a provider.

18 A vendor or a prior vendor who has been terminated,
19 excluded, or suspended from the medical assistance program, or
20 from another state or federal medical assistance or health care
21 program, and any individual currently or previously barred from
22 the medical assistance program, or from another state or
23 federal medical assistance or health care program, as a result
24 of being an officer or a person owning, directly or indirectly,
25 5% or more of the shares of stock or other evidences of
26 ownership in a corporate or limited liability company vendor

1 during the time of any conduct which served as the basis for
2 that vendor's termination, suspension, or exclusion, may be
3 required to post a surety bond as part of a condition of
4 enrollment or participation in the medical assistance program.
5 The Illinois Department shall establish, by rule, the criteria
6 and requirements for determining when a surety bond must be
7 posted and the value of the bond.

8 A vendor or a prior vendor who has a debt owed to the
9 Illinois Department and any individual currently or previously
10 barred from the medical assistance program, or from another
11 state or federal medical assistance or health care program, as
12 a result of being an officer or a person owning, directly or
13 indirectly, 5% or more of the shares of stock or other
14 evidences of ownership in that corporate or limited liability
15 company vendor during the time of any conduct which served as
16 the basis for the debt, may be required to post a surety bond
17 as part of a condition of enrollment or participation in the
18 medical assistance program. The Illinois Department shall
19 establish, by rule, the criteria and requirements for
20 determining when a surety bond must be posted and the value of
21 the bond.

22 (D) If a vendor has been suspended from the medical
23 assistance program under Article V of the Code, the Director
24 may require that such vendor correct any deficiencies which
25 served as the basis for the suspension. The Director shall
26 specify in the suspension order a specific period of time,

1 which shall not exceed one year from the date of the order,
2 during which a suspended vendor shall not be eligible to
3 participate. At the conclusion of the period of suspension the
4 Director shall reinstate such vendor, unless he finds that such
5 vendor has not corrected deficiencies upon which the suspension
6 was based.

7 If a vendor has been terminated, suspended, or excluded
8 from the medical assistance program under Article V, such
9 vendor shall be barred from participation for at least one
10 year, except that if a vendor has been terminated, suspended,
11 or excluded based on a conviction of a violation of Article
12 VIIIA or a conviction of a felony based on fraud or a willful
13 misrepresentation related to (i) the medical assistance
14 program under Article V, (ii) a federal or another state's
15 medical assistance or health care program, or (iii) the
16 provision of health care services, then the vendor shall be
17 barred from participation for 5 years or for the length of the
18 vendor's sentence for that conviction, whichever is longer. At
19 the end of one year a vendor who has been terminated,
20 suspended, or excluded may apply for reinstatement to the
21 program. Upon proper application to be reinstated such vendor
22 may be deemed eligible by the Director providing that such
23 vendor meets the requirements for eligibility under this Code.
24 If such vendor is deemed not eligible for reinstatement, he
25 shall be barred from again applying for reinstatement for one
26 year from the date his application for reinstatement is denied.

1 A vendor whose termination, suspension, or exclusion from
2 participation in the Illinois medical assistance program under
3 Article V was based solely on an action by a governmental
4 entity other than the Illinois Department may, upon
5 reinstatement by that governmental entity or upon reversal of
6 the termination, suspension, or exclusion, apply for
7 rescission of the termination, suspension, or exclusion from
8 participation in the Illinois medical assistance program. Upon
9 proper application for rescission, the vendor may be deemed
10 eligible by the Director if the vendor meets the requirements
11 for eligibility under this Code.

12 If a vendor has been terminated, suspended, or excluded and
13 reinstated to the medical assistance program under Article V
14 and the vendor is terminated, suspended, or excluded a second
15 or subsequent time from the medical assistance program, the
16 vendor shall be barred from participation for at least 2 years,
17 except that if a vendor has been terminated, suspended, or
18 excluded a second time based on a conviction of a violation of
19 Article VIIIA or a conviction of a felony based on fraud or a
20 willful misrepresentation related to (i) the medical
21 assistance program under Article V, (ii) a federal or another
22 state's medical assistance or health care program, or (iii) the
23 provision of health care services, then the vendor shall be
24 barred from participation for life. At the end of 2 years, a
25 vendor who has been terminated, suspended, or excluded may
26 apply for reinstatement to the program. Upon application to be

1 reinstated, the vendor may be deemed eligible if the vendor
2 meets the requirements for eligibility under this Code. If the
3 vendor is deemed not eligible for reinstatement, the vendor
4 shall be barred from again applying for reinstatement for 2
5 years from the date the vendor's application for reinstatement
6 is denied.

7 (E) The Illinois Department may recover money improperly or
8 erroneously paid, or overpayments, either by setoff, crediting
9 against future billings or by requiring direct repayment to the
10 Illinois Department. The Illinois Department may suspend or
11 deny payment, in whole or in part, if such payment would be
12 improper or erroneous or would otherwise result in overpayment.

13 (1) Payments may be suspended, denied, or recovered
14 from a vendor or alternate payee: (i) for services rendered
15 in violation of the Illinois Department's provider
16 notices, statutes, rules, and regulations; (ii) for
17 services rendered in violation of the terms and conditions
18 prescribed by the Illinois Department in its vendor
19 agreement; (iii) for any vendor who fails to grant the
20 Office of Inspector General timely access to full and
21 complete records, including, but not limited to, records
22 relating to recipients under the medical assistance
23 program for the most recent 6 years, in accordance with
24 Section 140.28 of Title 89 of the Illinois Administrative
25 Code, and other information for the purpose of audits,
26 investigations, or other program integrity functions,

1 after reasonable written request by the Inspector General;
2 this subsection (E) does not require vendors to make
3 available the medical records of patients for whom services
4 are not reimbursed under this Code or to provide access to
5 medical records more than 6 years old; (iv) when the vendor
6 has knowingly made, or caused to be made, any false
7 statement or representation of a material fact in
8 connection with the administration of the medical
9 assistance program; or (v) when the vendor previously
10 rendered services while terminated, suspended, or excluded
11 from participation in the medical assistance program or
12 while terminated or excluded from participation in another
13 state or federal medical assistance or health care program.

14 (2) Notwithstanding any other provision of law, if a
15 vendor has the same taxpayer identification number
16 (assigned under Section 6109 of the Internal Revenue Code
17 of 1986) as is assigned to a vendor with past-due financial
18 obligations to the Illinois Department, the Illinois
19 Department may make any necessary adjustments to payments
20 to that vendor in order to satisfy any past-due
21 obligations, regardless of whether the vendor is assigned a
22 different billing number under the medical assistance
23 program.

24 (E-5) Civil monetary penalties.

25 (1) As used in this subsection (E-5):

26 (a) "Knowingly" means that a person, with respect

1 to information: (i) has actual knowledge of the
2 information; (ii) acts in deliberate ignorance of the
3 truth or falsity of the information; or (iii) acts in
4 reckless disregard of the truth or falsity of the
5 information. No proof of specific intent to defraud is
6 required.

7 (b) "Overpayment" means any funds that a person
8 receives or retains from the medical assistance
9 program to which the person, after applicable
10 reconciliation, is not entitled under this Code.

11 (c) "Remuneration" means the offer or transfer of
12 items or services for free or for other than fair
13 market value by a person; however, remuneration does
14 not include items or services of a nominal value of no
15 more than \$10 per item or service, or \$50 in the
16 aggregate on an annual basis, or any other offer or
17 transfer of items or services as determined by the
18 Department.

19 (d) "Should know" means that a person, with respect
20 to information: (i) acts in deliberate ignorance of the
21 truth or falsity of the information; or (ii) acts in
22 reckless disregard of the truth or falsity of the
23 information. No proof of specific intent to defraud is
24 required.

25 (2) Any person (including a vendor, provider,
26 organization, agency, or other entity, or an alternate

1 payee thereof, but excluding a recipient) who:

2 (a) knowingly presents or causes to be presented to
3 an officer, employee, or agent of the State, a claim
4 that the Department determines:

5 (i) is for a medical or other item or service
6 that the person knows or should know was not
7 provided as claimed, including any person who
8 engages in a pattern or practice of presenting or
9 causing to be presented a claim for an item or
10 service that is based on a code that the person
11 knows or should know will result in a greater
12 payment to the person than the code the person
13 knows or should know is applicable to the item or
14 service actually provided;

15 (ii) is for a medical or other item or service
16 and the person knows or should know that the claim
17 is false or fraudulent;

18 (iii) is presented for a vendor physician's
19 service, or an item or service incident to a vendor
20 physician's service, by a person who knows or
21 should know that the individual who furnished, or
22 supervised the furnishing of, the service:

23 (AA) was not licensed as a physician;

24 (BB) was licensed as a physician but such
25 license had been obtained through a
26 misrepresentation of material fact (including

1 cheating on an examination required for
2 licensing); or

3 (CC) represented to the patient at the
4 time the service was furnished that the
5 physician was certified in a medical specialty
6 by a medical specialty board, when the
7 individual was not so certified;

8 (iv) is for a medical or other item or service
9 furnished during a period in which the person was
10 excluded from the medical assistance program or a
11 federal or state health care program under which
12 the claim was made pursuant to applicable law; or

13 (v) is for a pattern of medical or other items
14 or services that a person knows or should know are
15 not medically necessary;

16 (b) knowingly presents or causes to be presented to
17 any person a request for payment which is in violation
18 of the conditions for receipt of vendor payments under
19 the medical assistance program under Section 11-13 of
20 this Code;

21 (c) knowingly gives or causes to be given to any
22 person, with respect to medical assistance program
23 coverage of inpatient hospital services, information
24 that he or she knows or should know is false or
25 misleading, and that could reasonably be expected to
26 influence the decision when to discharge such person or

1 other individual from the hospital;

2 (d) in the case of a person who is not an
3 organization, agency, or other entity, is excluded
4 from participating in the medical assistance program
5 or a federal or state health care program and who, at
6 the time of a violation of this subsection (E-5):

7 (i) retains a direct or indirect ownership or
8 control interest in an entity that is
9 participating in the medical assistance program or
10 a federal or state health care program, and who
11 knows or should know of the action constituting the
12 basis for the exclusion; or

13 (ii) is an officer or managing employee of such
14 an entity;

15 (e) offers or transfers remuneration to any
16 individual eligible for benefits under the medical
17 assistance program that such person knows or should
18 know is likely to influence such individual to order or
19 receive from a particular vendor, provider,
20 practitioner, or supplier any item or service for which
21 payment may be made, in whole or in part, under the
22 medical assistance program;

23 (f) arranges or contracts (by employment or
24 otherwise) with an individual or entity that the person
25 knows or should know is excluded from participation in
26 the medical assistance program or a federal or state

1 health care program, for the provision of items or
2 services for which payment may be made under such a
3 program;

4 (g) commits an act described in subsection (b) or
5 (c) of Section 8A-3;

6 (h) knowingly makes, uses, or causes to be made or
7 used, a false record or statement material to a false
8 or fraudulent claim for payment for items and services
9 furnished under the medical assistance program;

10 (i) fails to grant timely access, upon reasonable
11 request (as defined by the Department by rule), to the
12 Inspector General, for the purpose of audits,
13 investigations, evaluations, or other statutory
14 functions of the Inspector General of the Department;

15 (j) orders or prescribes a medical or other item or
16 service during a period in which the person was
17 excluded from the medical assistance program or a
18 federal or state health care program, in the case where
19 the person knows or should know that a claim for such
20 medical or other item or service will be made under
21 such a program;

22 (k) knowingly makes or causes to be made any false
23 statement, omission, or misrepresentation of a
24 material fact in any application, bid, or contract to
25 participate or enroll as a vendor or provider of
26 services or a supplier under the medical assistance

1 program;

2 (1) knows of an overpayment and does not report and
3 return the overpayment to the Department in accordance
4 with paragraph (6);

5 shall be subject, in addition to any other penalties that
6 may be prescribed by law, to a civil money penalty of not
7 more than \$10,000 for each item or service (or, in cases
8 under subparagraph (c), \$15,000 for each individual with
9 respect to whom false or misleading information was given;
10 in cases under subparagraph (d), \$10,000 for each day the
11 prohibited relationship occurs; in cases under
12 subparagraph (g), \$50,000 for each such act; in cases under
13 subparagraph (h), \$50,000 for each false record or
14 statement; in cases under subparagraph (i), \$15,000 for
15 each day of the failure described in such subparagraph; or
16 in cases under subparagraph (k), \$50,000 for each false
17 statement, omission, or misrepresentation of a material
18 fact). In addition, such a person shall be subject to an
19 assessment of not more than 3 times the amount claimed for
20 each such item or service in lieu of damages sustained by
21 the State because of such claim (or, in cases under
22 subparagraph (g), damages of not more than 3 times the
23 total amount of remuneration offered, paid, solicited, or
24 received, without regard to whether a portion of such
25 remuneration was offered, paid, solicited, or received for
26 a lawful purpose; or in cases under subparagraph (k), an

1 assessment of not more than 3 times the total amount
2 claimed for each item or service for which payment was made
3 based upon the application, bid, or contract containing the
4 false statement, omission, or misrepresentation of a
5 material fact).

6 (3) In addition, the Director or his or her designee
7 may make a determination in the same proceeding to exclude,
8 terminate, suspend, or bar the person from participation in
9 the medical assistance program.

10 (4) The Illinois Department may seek the civil monetary
11 penalties and exclusion, termination, suspension, or
12 barment identified in this subsection (E-5). Prior to the
13 imposition of any penalties or sanctions, the affected
14 person shall be afforded an opportunity for a hearing after
15 reasonable notice. The Department shall establish hearing
16 procedures by rule.

17 (5) Any final order, decision, or other determination
18 made, issued, or executed by the Director under the
19 provisions of this subsection (E-5), whereby a person is
20 aggrieved, shall be subject to review in accordance with
21 the provisions of the Administrative Review Law, and the
22 rules adopted pursuant thereto, which shall apply to and
23 govern all proceedings for the judicial review of final
24 administrative decisions of the Director.

25 (6) (a) If a person has received an overpayment, the
26 person shall:

1 (i) report and return the overpayment to the
2 Department at the correct address; and

3 (ii) notify the Department in writing of the reason
4 for the overpayment.

5 (b) An overpayment must be reported and returned under
6 subparagraph (a) by the later of:

7 (i) the date which is 60 days after the date on
8 which the overpayment was identified; or

9 (ii) the date any corresponding cost report is due,
10 if applicable.

11 (E-10) A vendor who disputes an overpayment identified as
12 part of a Department audit shall utilize the Department's
13 self-referral disclosure protocol as set forth under this Code
14 to identify, investigate, and return to the Department any
15 undisputed audit overpayment amount. Unless the disputed
16 overpayment amount is subject to a fraud payment suspension, or
17 involves a termination sanction, the Department shall defer the
18 recovery of the disputed overpayment amount up to one year
19 after the date of the Department's final audit determination,
20 or earlier, or as required by State or federal law. If the
21 administrative hearing extends beyond one year, and such delay
22 was not caused by the request of the vendor, then the
23 Department shall not recover the disputed overpayment amount
24 until the date of the final administrative decision. If a final
25 administrative decision establishes that the disputed
26 overpayment amount is owed to the Department, then the amount

1 shall be immediately due to the Department. The Department
2 shall be entitled to recover interest from the vendor on the
3 overpayment amount from the date of the overpayment through the
4 date the vendor returns the overpayment to the Department at a
5 rate not to exceed the Wall Street Journal Prime Rate, as
6 published from time to time, but not to exceed 5%. Any interest
7 billed by the Department shall be due immediately upon receipt
8 of the Department's billing statement.

9 (F) The Illinois Department may withhold payments to any
10 vendor or alternate payee prior to or during the pendency of
11 any audit or proceeding under this Section, and through the
12 pendency of any administrative appeal or administrative review
13 by any court proceeding. The Illinois Department shall state by
14 rule with as much specificity as practicable the conditions
15 under which payments will not be withheld under this Section.
16 Payments may be denied for bills submitted with service dates
17 occurring during the pendency of a proceeding, after a final
18 decision has been rendered, or after the conclusion of any
19 administrative appeal, where the final administrative decision
20 is to terminate, exclude, or suspend eligibility to participate
21 in the medical assistance program. The Illinois Department
22 shall state by rule with as much specificity as practicable the
23 conditions under which payments will not be denied for such
24 bills. The Illinois Department shall state by rule a process
25 and criteria by which a vendor or alternate payee may request
26 full or partial release of payments withheld under this

1 subsection. The Department must complete a proceeding under
2 this Section in a timely manner.

3 Notwithstanding recovery allowed under subsection (E) or
4 this subsection (F), the Illinois Department may withhold
5 payments to any vendor or alternate payee who is not properly
6 licensed, certified, or in compliance with State or federal
7 agency regulations. Payments may be denied for bills submitted
8 with service dates occurring during the period of time that a
9 vendor is not properly licensed, certified, or in compliance
10 with State or federal regulations. Facilities licensed under
11 the Nursing Home Care Act shall have payments denied or
12 withheld pursuant to subsection (I) of this Section.

13 (F-5) The Illinois Department may temporarily withhold
14 payments to a vendor or alternate payee if any of the following
15 individuals have been indicted or otherwise charged under a law
16 of the United States or this or any other state with an offense
17 that is based on alleged fraud or willful misrepresentation on
18 the part of the individual related to (i) the medical
19 assistance program under Article V of this Code, (ii) a federal
20 or another state's medical assistance or health care program,
21 or (iii) the provision of health care services:

22 (1) If the vendor or alternate payee is a corporation:
23 an officer of the corporation or an individual who owns,
24 either directly or indirectly, 5% or more of the shares of
25 stock or other evidence of ownership of the corporation.

26 (2) If the vendor is a sole proprietorship: the owner

1 of the sole proprietorship.

2 (3) If the vendor or alternate payee is a partnership:
3 a partner in the partnership.

4 (4) If the vendor or alternate payee is any other
5 business entity authorized by law to transact business in
6 this State: an officer of the entity or an individual who
7 owns, either directly or indirectly, 5% or more of the
8 evidences of ownership of the entity.

9 If the Illinois Department withholds payments to a vendor
10 or alternate payee under this subsection, the Department shall
11 not release those payments to the vendor or alternate payee
12 while any criminal proceeding related to the indictment or
13 charge is pending unless the Department determines that there
14 is good cause to release the payments before completion of the
15 proceeding. If the indictment or charge results in the
16 individual's conviction, the Illinois Department shall retain
17 all withheld payments, which shall be considered forfeited to
18 the Department. If the indictment or charge does not result in
19 the individual's conviction, the Illinois Department shall
20 release to the vendor or alternate payee all withheld payments.

21 (F-10) If the Illinois Department establishes that the
22 vendor or alternate payee owes a debt to the Illinois
23 Department, and the vendor or alternate payee subsequently
24 fails to pay or make satisfactory payment arrangements with the
25 Illinois Department for the debt owed, the Illinois Department
26 may seek all remedies available under the law of this State to

1 recover the debt, including, but not limited to, wage
2 garnishment or the filing of claims or liens against the vendor
3 or alternate payee.

4 (F-15) Enforcement of judgment.

5 (1) Any fine, recovery amount, other sanction, or costs
6 imposed, or part of any fine, recovery amount, other
7 sanction, or cost imposed, remaining unpaid after the
8 exhaustion of or the failure to exhaust judicial review
9 procedures under the Illinois Administrative Review Law is
10 a debt due and owing the State and may be collected using
11 all remedies available under the law.

12 (2) After expiration of the period in which judicial
13 review under the Illinois Administrative Review Law may be
14 sought for a final administrative decision, unless stayed
15 by a court of competent jurisdiction, the findings,
16 decision, and order of the Director may be enforced in the
17 same manner as a judgment entered by a court of competent
18 jurisdiction.

19 (3) In any case in which any person or entity has
20 failed to comply with a judgment ordering or imposing any
21 fine or other sanction, any expenses incurred by the
22 Illinois Department to enforce the judgment, including,
23 but not limited to, attorney's fees, court costs, and costs
24 related to property demolition or foreclosure, after they
25 are fixed by a court of competent jurisdiction or the
26 Director, shall be a debt due and owing the State and may

1 be collected in accordance with applicable law. Prior to
2 any expenses being fixed by a final administrative decision
3 pursuant to this subsection (F-15), the Illinois
4 Department shall provide notice to the individual or entity
5 that states that the individual or entity shall appear at a
6 hearing before the administrative hearing officer to
7 determine whether the individual or entity has failed to
8 comply with the judgment. The notice shall set the date for
9 such a hearing, which shall not be less than 7 days from
10 the date that notice is served. If notice is served by
11 mail, the 7-day period shall begin to run on the date that
12 the notice was deposited in the mail.

13 (4) Upon being recorded in the manner required by
14 Article XII of the Code of Civil Procedure or by the
15 Uniform Commercial Code, a lien shall be imposed on the
16 real estate or personal estate, or both, of the individual
17 or entity in the amount of any debt due and owing the State
18 under this Section. The lien may be enforced in the same
19 manner as a judgment of a court of competent jurisdiction.
20 A lien shall attach to all property and assets of such
21 person, firm, corporation, association, agency,
22 institution, or other legal entity until the judgment is
23 satisfied.

24 (5) The Director may set aside any judgment entered by
25 default and set a new hearing date upon a petition filed at
26 any time (i) if the petitioner's failure to appear at the

1 hearing was for good cause, or (ii) if the petitioner
2 established that the Department did not provide proper
3 service of process. If any judgment is set aside pursuant
4 to this paragraph (5), the hearing officer shall have
5 authority to enter an order extinguishing any lien which
6 has been recorded for any debt due and owing the Illinois
7 Department as a result of the vacated default judgment.

8 (G) The provisions of the Administrative Review Law, as now
9 or hereafter amended, and the rules adopted pursuant thereto,
10 shall apply to and govern all proceedings for the judicial
11 review of final administrative decisions of the Illinois
12 Department under this Section. The term "administrative
13 decision" is defined as in Section 3-101 of the Code of Civil
14 Procedure.

15 (G-5) Vendors who pose a risk of fraud, waste, abuse, or
16 harm.

17 (1) Notwithstanding any other provision in this
18 Section, the Department may terminate, suspend, or exclude
19 vendors who pose a risk of fraud, waste, abuse, or harm
20 from participation in the medical assistance program prior
21 to an evidentiary hearing but after reasonable notice and
22 opportunity to respond as established by the Department by
23 rule.

24 (2) Vendors who pose a risk of fraud, waste, abuse, or
25 harm shall submit to a fingerprint-based criminal
26 background check on current and future information

1 available in the State system and current information
2 available through the Federal Bureau of Investigation's
3 system by submitting all necessary fees and information in
4 the form and manner prescribed by the Department of State
5 Police. The following individuals shall be subject to the
6 check:

7 (A) In the case of a vendor that is a corporation,
8 every shareholder who owns, directly or indirectly, 5%
9 or more of the outstanding shares of the corporation.

10 (B) In the case of a vendor that is a partnership,
11 every partner.

12 (C) In the case of a vendor that is a sole
13 proprietorship, the sole proprietor.

14 (D) Each officer or manager of the vendor.

15 Each such vendor shall be responsible for payment of
16 the cost of the criminal background check.

17 (3) Vendors who pose a risk of fraud, waste, abuse, or
18 harm may be required to post a surety bond. The Department
19 shall establish, by rule, the criteria and requirements for
20 determining when a surety bond must be posted and the value
21 of the bond.

22 (4) The Department, or its agents, may refuse to accept
23 requests for authorization from specific vendors who pose a
24 risk of fraud, waste, abuse, or harm, including
25 prior-approval and post-approval requests, if:

26 (A) the Department has initiated a notice of

1 termination, suspension, or exclusion of the vendor
2 from participation in the medical assistance program;
3 or

4 (B) the Department has issued notification of its
5 withholding of payments pursuant to subsection (F-5)
6 of this Section; or

7 (C) the Department has issued a notification of its
8 withholding of payments due to reliable evidence of
9 fraud or willful misrepresentation pending
10 investigation.

11 (5) As used in this subsection, the following terms are
12 defined as follows:

13 (A) "Fraud" means an intentional deception or
14 misrepresentation made by a person with the knowledge
15 that the deception could result in some unauthorized
16 benefit to himself or herself or some other person. It
17 includes any act that constitutes fraud under
18 applicable federal or State law.

19 (B) "Abuse" means provider practices that are
20 inconsistent with sound fiscal, business, or medical
21 practices and that result in an unnecessary cost to the
22 medical assistance program or in reimbursement for
23 services that are not medically necessary or that fail
24 to meet professionally recognized standards for health
25 care. It also includes recipient practices that result
26 in unnecessary cost to the medical assistance program.

1 Abuse does not include diagnostic or therapeutic
2 measures conducted primarily as a safeguard against
3 possible vendor liability.

4 (C) "Waste" means the unintentional misuse of
5 medical assistance resources, resulting in unnecessary
6 cost to the medical assistance program. Waste does not
7 include diagnostic or therapeutic measures conducted
8 primarily as a safeguard against possible vendor
9 liability.

10 (D) "Harm" means physical, mental, or monetary
11 damage to recipients or to the medical assistance
12 program.

13 (G-6) The Illinois Department, upon making a determination
14 based upon information in the possession of the Illinois
15 Department that continuation of participation in the medical
16 assistance program by a vendor would constitute an immediate
17 danger to the public, may immediately suspend such vendor's
18 participation in the medical assistance program without a
19 hearing. In instances in which the Illinois Department
20 immediately suspends the medical assistance program
21 participation of a vendor under this Section, a hearing upon
22 the vendor's participation must be convened by the Illinois
23 Department within 15 days after such suspension and completed
24 without appreciable delay. Such hearing shall be held to
25 determine whether to recommend to the Director that the
26 vendor's medical assistance program participation be denied,

1 terminated, suspended, placed on provisional status, or
2 reinstated. In the hearing, any evidence relevant to the vendor
3 constituting an immediate danger to the public may be
4 introduced against such vendor; provided, however, that the
5 vendor, or his or her counsel, shall have the opportunity to
6 discredit, impeach, and submit evidence rebutting such
7 evidence.

8 (H) Nothing contained in this Code shall in any way limit
9 or otherwise impair the authority or power of any State agency
10 responsible for licensing of vendors.

11 (I) Based on a finding of noncompliance on the part of a
12 nursing home with any requirement for certification under Title
13 XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 1395 et
14 seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois Department
15 may impose one or more of the following remedies after notice
16 to the facility:

17 (1) Termination of the provider agreement.

18 (2) Temporary management.

19 (3) Denial of payment for new admissions.

20 (4) Civil money penalties.

21 (5) Closure of the facility in emergency situations or
22 transfer of residents, or both.

23 (6) State monitoring.

24 (7) Denial of all payments when the U.S. Department of
25 Health and Human Services has imposed this sanction.

26 The Illinois Department shall by rule establish criteria

1 governing continued payments to a nursing facility subsequent
2 to termination of the facility's provider agreement if, in the
3 sole discretion of the Illinois Department, circumstances
4 affecting the health, safety, and welfare of the facility's
5 residents require those continued payments. The Illinois
6 Department may condition those continued payments on the
7 appointment of temporary management, sale of the facility to
8 new owners or operators, or other arrangements that the
9 Illinois Department determines best serve the needs of the
10 facility's residents.

11 Except in the case of a facility that has a right to a
12 hearing on the finding of noncompliance before an agency of the
13 federal government, a facility may request a hearing before a
14 State agency on any finding of noncompliance within 60 days
15 after the notice of the intent to impose a remedy. Except in
16 the case of civil money penalties, a request for a hearing
17 shall not delay imposition of the penalty. The choice of
18 remedies is not appealable at a hearing. The level of
19 noncompliance may be challenged only in the case of a civil
20 money penalty. The Illinois Department shall provide by rule
21 for the State agency that will conduct the evidentiary
22 hearings.

23 The Illinois Department may collect interest on unpaid
24 civil money penalties.

25 The Illinois Department may adopt all rules necessary to
26 implement this subsection (I).

1 (J) The Illinois Department, by rule, may permit individual
2 practitioners to designate that Department payments that may be
3 due the practitioner be made to an alternate payee or alternate
4 payees.

5 (a) Such alternate payee or alternate payees shall be
6 required to register as an alternate payee in the Medical
7 Assistance Program with the Illinois Department.

8 (b) If a practitioner designates an alternate payee,
9 the alternate payee and practitioner shall be jointly and
10 severally liable to the Department for payments made to the
11 alternate payee. Pursuant to subsection (E) of this
12 Section, any Department action to suspend or deny payment
13 or recover money or overpayments from an alternate payee
14 shall be subject to an administrative hearing.

15 (c) Registration as an alternate payee or alternate
16 payees in the Illinois Medical Assistance Program shall be
17 conditional. At any time, the Illinois Department may deny
18 or cancel any alternate payee's registration in the
19 Illinois Medical Assistance Program without cause. Any
20 such denial or cancellation is not subject to an
21 administrative hearing.

22 (d) The Illinois Department may seek a revocation of
23 any alternate payee, and all owners, officers, and
24 individuals with management responsibility for such
25 alternate payee shall be permanently prohibited from
26 participating as an owner, an officer, or an individual

1 with management responsibility with an alternate payee in
2 the Illinois Medical Assistance Program, if after
3 reasonable notice and opportunity for a hearing the
4 Illinois Department finds that:

5 (1) the alternate payee is not complying with the
6 Department's policy or rules and regulations, or with
7 the terms and conditions prescribed by the Illinois
8 Department in its alternate payee registration
9 agreement; or

10 (2) the alternate payee has failed to keep or make
11 available for inspection, audit, or copying, after
12 receiving a written request from the Illinois
13 Department, such records regarding payments claimed as
14 an alternate payee; or

15 (3) the alternate payee has failed to furnish any
16 information requested by the Illinois Department
17 regarding payments claimed as an alternate payee; or

18 (4) the alternate payee has knowingly made, or
19 caused to be made, any false statement or
20 representation of a material fact in connection with
21 the administration of the Illinois Medical Assistance
22 Program; or

23 (5) the alternate payee, a person with management
24 responsibility for an alternate payee, an officer or
25 person owning, either directly or indirectly, 5% or
26 more of the shares of stock or other evidences of

1 ownership in a corporate alternate payee, or a partner
2 in a partnership which is an alternate payee:

3 (a) was previously terminated, suspended, or
4 excluded from participation as a vendor in the
5 Illinois Medical Assistance Program, or was
6 previously revoked as an alternate payee in the
7 Illinois Medical Assistance Program, or was
8 terminated, suspended, or excluded from
9 participation as a vendor in a medical assistance
10 program in another state that is of the same kind
11 as the program of medical assistance provided
12 under Article V of this Code; or

13 (b) was a person with management
14 responsibility for a vendor previously terminated,
15 suspended, or excluded from participation as a
16 vendor in the Illinois Medical Assistance Program,
17 or was previously revoked as an alternate payee in
18 the Illinois Medical Assistance Program, or was
19 terminated, suspended, or excluded from
20 participation as a vendor in a medical assistance
21 program in another state that is of the same kind
22 as the program of medical assistance provided
23 under Article V of this Code, during the time of
24 conduct which was the basis for that vendor's
25 termination, suspension, or exclusion or alternate
26 payee's revocation; or

1 (c) was an officer, or person owning, either
2 directly or indirectly, 5% or more of the shares of
3 stock or other evidences of ownership in a
4 corporate vendor previously terminated, suspended,
5 or excluded from participation as a vendor in the
6 Illinois Medical Assistance Program, or was
7 previously revoked as an alternate payee in the
8 Illinois Medical Assistance Program, or was
9 terminated, suspended, or excluded from
10 participation as a vendor in a medical assistance
11 program in another state that is of the same kind
12 as the program of medical assistance provided
13 under Article V of this Code, during the time of
14 conduct which was the basis for that vendor's
15 termination, suspension, or exclusion; or

16 (d) was an owner of a sole proprietorship or
17 partner in a partnership previously terminated,
18 suspended, or excluded from participation as a
19 vendor in the Illinois Medical Assistance Program,
20 or was previously revoked as an alternate payee in
21 the Illinois Medical Assistance Program, or was
22 terminated, suspended, or excluded from
23 participation as a vendor in a medical assistance
24 program in another state that is of the same kind
25 as the program of medical assistance provided
26 under Article V of this Code, during the time of

1 conduct which was the basis for that vendor's
2 termination, suspension, or exclusion or alternate
3 payee's revocation; or

4 (6) the alternate payee, a person with management
5 responsibility for an alternate payee, an officer or
6 person owning, either directly or indirectly, 5% or
7 more of the shares of stock or other evidences of
8 ownership in a corporate alternate payee, or a partner
9 in a partnership which is an alternate payee:

10 (a) has engaged in conduct prohibited by
11 applicable federal or State law or regulation
12 relating to the Illinois Medical Assistance
13 Program; or

14 (b) was a person with management
15 responsibility for a vendor or alternate payee at
16 the time that the vendor or alternate payee engaged
17 in practices prohibited by applicable federal or
18 State law or regulation relating to the Illinois
19 Medical Assistance Program; or

20 (c) was an officer, or person owning, either
21 directly or indirectly, 5% or more of the shares of
22 stock or other evidences of ownership in a vendor
23 or alternate payee at the time such vendor or
24 alternate payee engaged in practices prohibited by
25 applicable federal or State law or regulation
26 relating to the Illinois Medical Assistance

1 Program; or

2 (d) was an owner of a sole proprietorship or
3 partner in a partnership which was a vendor or
4 alternate payee at the time such vendor or
5 alternate payee engaged in practices prohibited by
6 applicable federal or State law or regulation
7 relating to the Illinois Medical Assistance
8 Program; or

9 (7) the direct or indirect ownership of the vendor
10 or alternate payee (including the ownership of a vendor
11 or alternate payee that is a partner's interest in a
12 vendor or alternate payee, or ownership of 5% or more
13 of the shares of stock or other evidences of ownership
14 in a corporate vendor or alternate payee) has been
15 transferred by an individual who is terminated,
16 suspended, or excluded or barred from participating as
17 a vendor or is prohibited or revoked as an alternate
18 payee to the individual's spouse, child, brother,
19 sister, parent, grandparent, grandchild, uncle, aunt,
20 niece, nephew, cousin, or relative by marriage.

21 (K) The Illinois Department of Healthcare and Family
22 Services may withhold payments, in whole or in part, to a
23 provider or alternate payee where there is credible evidence,
24 received from State or federal law enforcement or federal
25 oversight agencies or from the results of a preliminary
26 Department audit, that the circumstances giving rise to the

1 need for a withholding of payments may involve fraud or willful
2 misrepresentation under the Illinois Medical Assistance
3 program. The Department shall by rule define what constitutes
4 "credible" evidence for purposes of this subsection. The
5 Department may withhold payments without first notifying the
6 provider or alternate payee of its intention to withhold such
7 payments. A provider or alternate payee may request a
8 reconsideration of payment withholding, and the Department
9 must grant such a request. The Department shall state by rule a
10 process and criteria by which a provider or alternate payee may
11 request full or partial release of payments withheld under this
12 subsection. This request may be made at any time after the
13 Department first withholds such payments.

14 (a) The Illinois Department must send notice of its
15 withholding of program payments within 5 days of taking
16 such action. The notice must set forth the general
17 allegations as to the nature of the withholding action, but
18 need not disclose any specific information concerning its
19 ongoing investigation. The notice must do all of the
20 following:

21 (1) State that payments are being withheld in
22 accordance with this subsection.

23 (2) State that the withholding is for a temporary
24 period, as stated in paragraph (b) of this subsection,
25 and cite the circumstances under which withholding
26 will be terminated.

1 (3) Specify, when appropriate, which type or types
2 of Medicaid claims withholding is effective.

3 (4) Inform the provider or alternate payee of the
4 right to submit written evidence for reconsideration
5 of the withholding by the Illinois Department.

6 (5) Inform the provider or alternate payee that a
7 written request may be made to the Illinois Department
8 for full or partial release of withheld payments and
9 that such requests may be made at any time after the
10 Department first withholds such payments.

11 (b) All withholding-of-payment actions under this
12 subsection shall be temporary and shall not continue after
13 any of the following:

14 (1) The Illinois Department or the prosecuting
15 authorities determine that there is insufficient
16 evidence of fraud or willful misrepresentation by the
17 provider or alternate payee.

18 (2) Legal proceedings related to the provider's or
19 alternate payee's alleged fraud, willful
20 misrepresentation, violations of this Act, or
21 violations of the Illinois Department's administrative
22 rules are completed.

23 (3) The withholding of payments for a period of 3
24 years.

25 (c) The Illinois Department may adopt all rules
26 necessary to implement this subsection (K).

1 (K-5) The Illinois Department may withhold payments, in
2 whole or in part, to a provider or alternate payee upon
3 initiation of an audit, quality of care review, investigation
4 when there is a credible allegation of fraud, or the provider
5 or alternate payee demonstrating a clear failure to cooperate
6 with the Illinois Department such that the circumstances give
7 rise to the need for a withholding of payments. As used in this
8 subsection, "credible allegation" is defined to include an
9 allegation from any source, including, but not limited to,
10 fraud hotline complaints, claims data mining, patterns
11 identified through provider audits, civil actions filed under
12 the Illinois False Claims Act, and law enforcement
13 investigations. An allegation is considered to be credible when
14 it has indicia of reliability. The Illinois Department may
15 withhold payments without first notifying the provider or
16 alternate payee of its intention to withhold such payments. A
17 provider or alternate payee may request a hearing or a
18 reconsideration of payment withholding, and the Illinois
19 Department must grant such a request. The Illinois Department
20 shall state by rule a process and criteria by which a provider
21 or alternate payee may request a hearing or a reconsideration
22 for the full or partial release of payments withheld under this
23 subsection. This request may be made at any time after the
24 Illinois Department first withholds such payments.

25 (a) The Illinois Department must send notice of its
26 withholding of program payments within 5 days of taking

1 such action. The notice must set forth the general
2 allegations as to the nature of the withholding action but
3 need not disclose any specific information concerning its
4 ongoing investigation. The notice must do all of the
5 following:

6 (1) State that payments are being withheld in
7 accordance with this subsection.

8 (2) State that the withholding is for a temporary
9 period, as stated in paragraph (b) of this subsection,
10 and cite the circumstances under which withholding
11 will be terminated.

12 (3) Specify, when appropriate, which type or types
13 of claims are withheld.

14 (4) Inform the provider or alternate payee of the
15 right to request a hearing or a reconsideration of the
16 withholding by the Illinois Department, including the
17 ability to submit written evidence.

18 (5) Inform the provider or alternate payee that a
19 written request may be made to the Illinois Department
20 for a hearing or a reconsideration for the full or
21 partial release of withheld payments and that such
22 requests may be made at any time after the Illinois
23 Department first withholds such payments.

24 (b) All withholding of payment actions under this
25 subsection shall be temporary and shall not continue after
26 any of the following:

1 (1) The Illinois Department determines that there
2 is insufficient evidence of fraud, or the provider or
3 alternate payee demonstrates clear cooperation with
4 the Illinois Department, as determined by the Illinois
5 Department, such that the circumstances do not give
6 rise to the need for withholding of payments; or

7 (2) The withholding of payments has lasted for a
8 period in excess of 3 years.

9 (c) The Illinois Department may adopt all rules
10 necessary to implement this subsection (K-5).

11 (L) The Illinois Department shall establish a protocol to
12 enable health care providers to disclose an actual or potential
13 violation of this Section pursuant to a self-referral
14 disclosure protocol, referred to in this subsection as "the
15 protocol". The protocol shall include direction for health care
16 providers on a specific person, official, or office to whom
17 such disclosures shall be made. The Illinois Department shall
18 post information on the protocol on the Illinois Department's
19 public website. The Illinois Department may adopt rules
20 necessary to implement this subsection (L). In addition to
21 other factors that the Illinois Department finds appropriate,
22 the Illinois Department may consider a health care provider's
23 timely use or failure to use the protocol in considering the
24 provider's failure to comply with this Code.

25 (M) Notwithstanding any other provision of this Code, the
26 Illinois Department, at its discretion, may exempt an entity

1 licensed under the Nursing Home Care Act, ~~and~~ the ID/DD
2 Community Care Act, or the MC/DD Act from the provisions of
3 subsections (A-15), (B), and (C) of this Section if the
4 licensed entity is in receivership.

5 (Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13;
6 98-214, eff. 8-9-13; 98-550, eff. 8-27-13; 98-756, eff.
7 7-16-14.)

8 Section 175. The Nursing Home Grant Assistance Act is
9 amended by changing Section 5 as follows:

10 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

11 Sec. 5. Definitions. As used in this Act, unless the
12 context requires otherwise:

13 "Applicant" means an eligible individual who makes a
14 payment of at least \$1 in a quarter to a nursing home.

15 "Application" means the receipt by a nursing home of at
16 least \$1 from an eligible individual that is a resident of the
17 home.

18 "Department" means the Department of Revenue.

19 "Director" means the Director of the Department of Revenue.

20 "Distribution agent" means a nursing home that is residence
21 to one or more eligible individuals, which receives an
22 application from one or more applicants for participation in
23 the Nursing Home Grant Assistance Program provided for by this
24 Act, and is thereby designated as distributing agent by such

1 applicant or applicants, and which is thereby authorized by
2 virtue of its license to receive from the Department and
3 distribute to eligible individuals residing in the nursing home
4 Nursing Home Grant Assistance payments under this Act.

5 "Qualified distribution agent" means a distribution agent
6 that the Department of Public Health has certified to the
7 Department of Revenue to be a licensed nursing home in good
8 standing.

9 "Eligible individual" means an individual eligible for a
10 nursing home grant assistance payment because he or she meets
11 each of the following requirements:

12 (1) The individual resides, after June 30, 1992, in a
13 nursing home as defined in this Act.

14 (2) For each day for which nursing home grant
15 assistance is sought, the individual's nursing home care
16 was not paid for, in whole or in part, by a federal, State,
17 or combined federal-State medical care program; the
18 receipt of Medicare Part B benefits does not make a person
19 ineligible for nursing home grant assistance.

20 (3) The individual's annual adjusted gross income,
21 after payment of any expenses for nursing home care, does
22 not exceed 250% of the federal poverty guidelines for an
23 individual as published annually by the U.S. Department of
24 Health and Human Services for purposes of determining
25 Medicaid eligibility.

26 "Fund" means the Nursing Home Grant Assistance Fund.

1 "Nursing home" means a skilled nursing or intermediate long
2 term care facility that is subject to licensure by the Illinois
3 Department of Public Health under the Nursing Home Care Act, ~~or~~
4 the ID/DD Community Care Act, or the MC/DD Act.

5 "Occupied bed days" means the sum for all beds of the
6 number of days during a quarter for which grant assistance is
7 sought under this Act on which a bed is occupied by an
8 individual.

9 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

10 Section 180. The Adult Protective Services Act is amended
11 by changing Section 2 as follows:

12 (320 ILCS 20/2) (from Ch. 23, par. 6602)

13 Sec. 2. Definitions. As used in this Act, unless the
14 context requires otherwise:

15 (a) "Abuse" means causing any physical, mental or sexual
16 injury to an eligible adult, including exploitation of such
17 adult's financial resources.

18 Nothing in this Act shall be construed to mean that an
19 eligible adult is a victim of abuse, neglect, or self-neglect
20 for the sole reason that he or she is being furnished with or
21 relies upon treatment by spiritual means through prayer alone,
22 in accordance with the tenets and practices of a recognized
23 church or religious denomination.

24 Nothing in this Act shall be construed to mean that an

1 eligible adult is a victim of abuse because of health care
2 services provided or not provided by licensed health care
3 professionals.

4 (a-5) "Abuser" means a person who abuses, neglects, or
5 financially exploits an eligible adult.

6 (a-6) "Adult with disabilities" means a person aged 18
7 through 59 who resides in a domestic living situation and whose
8 disability as defined in subsection (c-5) impairs his or her
9 ability to seek or obtain protection from abuse, neglect, or
10 exploitation.

11 (a-7) "Caregiver" means a person who either as a result of
12 a family relationship, voluntarily, or in exchange for
13 compensation has assumed responsibility for all or a portion of
14 the care of an eligible adult who needs assistance with
15 activities of daily living or instrumental activities of daily
16 living.

17 (b) "Department" means the Department on Aging of the State
18 of Illinois.

19 (c) "Director" means the Director of the Department.

20 (c-5) "Disability" means a physical or mental disability,
21 including, but not limited to, a developmental disability, an
22 intellectual disability, a mental illness as defined under the
23 Mental Health and Developmental Disabilities Code, or dementia
24 as defined under the Alzheimer's Disease Assistance Act.

25 (d) "Domestic living situation" means a residence where the
26 eligible adult at the time of the report lives alone or with

1 his or her family or a caregiver, or others, or other
2 community-based unlicensed facility, but is not:

3 (1) A licensed facility as defined in Section 1-113 of
4 the Nursing Home Care Act;

5 (1.5) A facility licensed under the ID/DD Community
6 Care Act;

7 (1.6) A facility licensed under the MC/DD Act;

8 (1.7) A facility licensed under the Specialized Mental
9 Health Rehabilitation Act of 2013;

10 (2) A "life care facility" as defined in the Life Care
11 Facilities Act;

12 (3) A home, institution, or other place operated by the
13 federal government or agency thereof or by the State of
14 Illinois;

15 (4) A hospital, sanitarium, or other institution, the
16 principal activity or business of which is the diagnosis,
17 care, and treatment of human illness through the
18 maintenance and operation of organized facilities
19 therefor, which is required to be licensed under the
20 Hospital Licensing Act;

21 (5) A "community living facility" as defined in the
22 Community Living Facilities Licensing Act;

23 (6) (Blank);

24 (7) A "community-integrated living arrangement" as
25 defined in the Community-Integrated Living Arrangements
26 Licensure and Certification Act or a "community

1 residential alternative" as licensed under that Act;

2 (8) An assisted living or shared housing establishment
3 as defined in the Assisted Living and Shared Housing Act;
4 or

5 (9) A supportive living facility as described in
6 Section 5-5.01a of the Illinois Public Aid Code.

7 (e) "Eligible adult" means either an adult with
8 disabilities aged 18 through 59 or a person aged 60 or older
9 who resides in a domestic living situation and is, or is
10 alleged to be, abused, neglected, or financially exploited by
11 another individual or who neglects himself or herself.

12 (f) "Emergency" means a situation in which an eligible
13 adult is living in conditions presenting a risk of death or
14 physical, mental or sexual injury and the provider agency has
15 reason to believe the eligible adult is unable to consent to
16 services which would alleviate that risk.

17 (f-1) "Financial exploitation" means the use of an eligible
18 adult's resources by another to the disadvantage of that adult
19 or the profit or advantage of a person other than that adult.

20 (f-5) "Mandated reporter" means any of the following
21 persons while engaged in carrying out their professional
22 duties:

23 (1) a professional or professional's delegate while
24 engaged in: (i) social services, (ii) law enforcement,
25 (iii) education, (iv) the care of an eligible adult or
26 eligible adults, or (v) any of the occupations required to

1 be licensed under the Clinical Psychologist Licensing Act,
2 the Clinical Social Work and Social Work Practice Act, the
3 Illinois Dental Practice Act, the Dietitian Nutritionist
4 Practice Act, the Marriage and Family Therapy Licensing
5 Act, the Medical Practice Act of 1987, the Naprapathic
6 Practice Act, the Nurse Practice Act, the Nursing Home
7 Administrators Licensing and Disciplinary Act, the
8 Illinois Occupational Therapy Practice Act, the Illinois
9 Optometric Practice Act of 1987, the Pharmacy Practice Act,
10 the Illinois Physical Therapy Act, the Physician Assistant
11 Practice Act of 1987, the Podiatric Medical Practice Act of
12 1987, the Respiratory Care Practice Act, the Professional
13 Counselor and Clinical Professional Counselor Licensing
14 and Practice Act, the Illinois Speech-Language Pathology
15 and Audiology Practice Act, the Veterinary Medicine and
16 Surgery Practice Act of 2004, and the Illinois Public
17 Accounting Act;

18 (1.5) an employee of an entity providing developmental
19 disabilities services or service coordination funded by
20 the Department of Human Services;

21 (2) an employee of a vocational rehabilitation
22 facility prescribed or supervised by the Department of
23 Human Services;

24 (3) an administrator, employee, or person providing
25 services in or through an unlicensed community based
26 facility;

1 (4) any religious practitioner who provides treatment
2 by prayer or spiritual means alone in accordance with the
3 tenets and practices of a recognized church or religious
4 denomination, except as to information received in any
5 confession or sacred communication enjoined by the
6 discipline of the religious denomination to be held
7 confidential;

8 (5) field personnel of the Department of Healthcare and
9 Family Services, Department of Public Health, and
10 Department of Human Services, and any county or municipal
11 health department;

12 (6) personnel of the Department of Human Services, the
13 Guardianship and Advocacy Commission, the State Fire
14 Marshal, local fire departments, the Department on Aging
15 and its subsidiary Area Agencies on Aging and provider
16 agencies, and the Office of State Long Term Care Ombudsman;

17 (7) any employee of the State of Illinois not otherwise
18 specified herein who is involved in providing services to
19 eligible adults, including professionals providing medical
20 or rehabilitation services and all other persons having
21 direct contact with eligible adults;

22 (8) a person who performs the duties of a coroner or
23 medical examiner; or

24 (9) a person who performs the duties of a paramedic or
25 an emergency medical technician.

26 (g) "Neglect" means another individual's failure to

1 provide an eligible adult with or willful withholding from an
2 eligible adult the necessities of life including, but not
3 limited to, food, clothing, shelter or health care. This
4 subsection does not create any new affirmative duty to provide
5 support to eligible adults. Nothing in this Act shall be
6 construed to mean that an eligible adult is a victim of neglect
7 because of health care services provided or not provided by
8 licensed health care professionals.

9 (h) "Provider agency" means any public or nonprofit agency
10 in a planning and service area that is selected by the
11 Department or appointed by the regional administrative agency
12 with prior approval by the Department on Aging to receive and
13 assess reports of alleged or suspected abuse, neglect, or
14 financial exploitation. A provider agency is also referenced as
15 a "designated agency" in this Act.

16 (i) "Regional administrative agency" means any public or
17 nonprofit agency in a planning and service area that provides
18 regional oversight and performs functions as set forth in
19 subsection (b) of Section 3 of this Act. The Department shall
20 designate an Area Agency on Aging as the regional
21 administrative agency or, in the event the Area Agency on Aging
22 in that planning and service area is deemed by the Department
23 to be unwilling or unable to provide those functions, the
24 Department may serve as the regional administrative agency or
25 designate another qualified entity to serve as the regional
26 administrative agency; any such designation shall be subject to

1 terms set forth by the Department.

2 (i-5) "Self-neglect" means a condition that is the result
3 of an eligible adult's inability, due to physical or mental
4 impairments, or both, or a diminished capacity, to perform
5 essential self-care tasks that substantially threaten his or
6 her own health, including: providing essential food, clothing,
7 shelter, and health care; and obtaining goods and services
8 necessary to maintain physical health, mental health,
9 emotional well-being, and general safety. The term includes
10 compulsive hoarding, which is characterized by the acquisition
11 and retention of large quantities of items and materials that
12 produce an extensively cluttered living space, which
13 significantly impairs the performance of essential self-care
14 tasks or otherwise substantially threatens life or safety.

15 (j) "Substantiated case" means a reported case of alleged
16 or suspected abuse, neglect, financial exploitation, or
17 self-neglect in which a provider agency, after assessment,
18 determines that there is reason to believe abuse, neglect, or
19 financial exploitation has occurred.

20 (k) "Verified" means a determination that there is "clear
21 and convincing evidence" that the specific injury or harm
22 alleged was the result of abuse, neglect, or financial
23 exploitation.

24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-300,
25 eff. 8-11-11; 97-706, eff. 6-25-12; 97-813, eff. 7-13-12;
26 97-1141, eff. 12-28-12; 98-49, eff. 7-1-13; 98-104, eff.

1 7-22-13; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14.)

2 Section 185. The Older Adult Services Act is amended by
3 changing Section 10 as follows:

4 (320 ILCS 42/10)

5 Sec. 10. Definitions. In this Act:

6 "Advisory Committee" means the Older Adult Services
7 Advisory Committee.

8 "Certified nursing home" means any nursing home licensed
9 under the Nursing Home Care Act, ~~or~~ the ID/DD Community Care
10 Act, or the MC/DD Act and certified under Title XIX of the
11 Social Security Act to participate as a vendor in the medical
12 assistance program under Article V of the Illinois Public Aid
13 Code.

14 "Comprehensive case management" means the assessment of
15 needs and preferences of an older adult at the direction of the
16 older adult or the older adult's designated representative and
17 the arrangement, coordination, and monitoring of an optimum
18 package of services to meet the needs of the older adult.

19 "Consumer-directed" means decisions made by an informed
20 older adult from available services and care options, which may
21 range from independently making all decisions and managing
22 services directly to limited participation in decision-making,
23 based upon the functional and cognitive level of the older
24 adult.

1 "Coordinated point of entry" means an integrated access
2 point where consumers receive information and assistance,
3 assessment of needs, care planning, referral, assistance in
4 completing applications, authorization of services where
5 permitted, and follow-up to ensure that referrals and services
6 are accessed.

7 "Department" means the Department on Aging, in
8 collaboration with the departments of Public Health and
9 Healthcare and Family Services and other relevant agencies and
10 in consultation with the Advisory Committee, except as
11 otherwise provided.

12 "Departments" means the Department on Aging, the
13 departments of Public Health and Healthcare and Family
14 Services, and other relevant agencies in collaboration with
15 each other and in consultation with the Advisory Committee,
16 except as otherwise provided.

17 "Family caregiver" means an adult family member or another
18 individual who is an uncompensated provider of home-based or
19 community-based care to an older adult.

20 "Health services" means activities that promote, maintain,
21 improve, or restore mental or physical health or that are
22 palliative in nature.

23 "Older adult" means a person age 60 or older and, if
24 appropriate, the person's family caregiver.

25 "Person-centered" means a process that builds upon an older
26 adult's strengths and capacities to engage in activities that

1 promote community life and that reflect the older adult's
2 preferences, choices, and abilities, to the extent
3 practicable.

4 "Priority service area" means an area identified by the
5 Departments as being less-served with respect to the
6 availability of and access to older adult services in Illinois.
7 The Departments shall determine by rule the criteria and
8 standards used to designate such areas.

9 "Priority service plan" means the plan developed pursuant
10 to Section 25 of this Act.

11 "Provider" means any supplier of services under this Act.

12 "Residential setting" means the place where an older adult
13 lives.

14 "Restructuring" means the transformation of Illinois'
15 comprehensive system of older adult services from funding
16 primarily a facility-based service delivery system to
17 primarily a home-based and community-based system, taking into
18 account the continuing need for 24-hour skilled nursing care
19 and congregate housing with services.

20 "Services" means the range of housing, health, financial,
21 and supportive services, other than acute health care services,
22 that are delivered to an older adult with functional or
23 cognitive limitations, or socialization needs, who requires
24 assistance to perform activities of daily living, regardless of
25 the residential setting in which the services are delivered.

26 "Supportive services" means non-medical assistance given

1 over a period of time to an older adult that is needed to
2 compensate for the older adult's functional or cognitive
3 limitations, or socialization needs, or those services
4 designed to restore, improve, or maintain the older adult's
5 functional or cognitive abilities.

6 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

7 Section 190. The Mental Health and Developmental
8 Disabilities Code is amended by changing Section 2-107 as
9 follows:

10 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

11 Sec. 2-107. Refusal of services; informing of risks.

12 (a) An adult recipient of services or the recipient's
13 guardian, if the recipient is under guardianship, and the
14 recipient's substitute decision maker, if any, must be informed
15 of the recipient's right to refuse medication or
16 electroconvulsive therapy. The recipient and the recipient's
17 guardian or substitute decision maker shall be given the
18 opportunity to refuse generally accepted mental health or
19 developmental disability services, including but not limited
20 to medication or electroconvulsive therapy. If such services
21 are refused, they shall not be given unless such services are
22 necessary to prevent the recipient from causing serious and
23 imminent physical harm to the recipient or others and no less
24 restrictive alternative is available. The facility director

1 shall inform a recipient, guardian, or substitute decision
2 maker, if any, who refuses such services of alternate services
3 available and the risks of such alternate services, as well as
4 the possible consequences to the recipient of refusal of such
5 services.

6 (b) Psychotropic medication or electroconvulsive therapy
7 may be administered under this Section for up to 24 hours only
8 if the circumstances leading up to the need for emergency
9 treatment are set forth in writing in the recipient's record.

10 (c) Administration of medication or electroconvulsive
11 therapy may not be continued unless the need for such treatment
12 is redetermined at least every 24 hours based upon a personal
13 examination of the recipient by a physician or a nurse under
14 the supervision of a physician and the circumstances
15 demonstrating that need are set forth in writing in the
16 recipient's record.

17 (d) Neither psychotropic medication nor electroconvulsive
18 therapy may be administered under this Section for a period in
19 excess of 72 hours, excluding Saturdays, Sundays, and holidays,
20 unless a petition is filed under Section 2-107.1 and the
21 treatment continues to be necessary under subsection (a) of
22 this Section. Once the petition has been filed, treatment may
23 continue in compliance with subsections (a), (b), and (c) of
24 this Section until the final outcome of the hearing on the
25 petition.

26 (e) The Department shall issue rules designed to insure

1 that in State-operated mental health facilities psychotropic
2 medication and electroconvulsive therapy are administered in
3 accordance with this Section and only when appropriately
4 authorized and monitored by a physician or a nurse under the
5 supervision of a physician in accordance with accepted medical
6 practice. The facility director of each mental health facility
7 not operated by the State shall issue rules designed to insure
8 that in that facility psychotropic medication and
9 electroconvulsive therapy are administered in accordance with
10 this Section and only when appropriately authorized and
11 monitored by a physician or a nurse under the supervision of a
12 physician in accordance with accepted medical practice. Such
13 rules shall be available for public inspection and copying
14 during normal business hours.

15 (f) The provisions of this Section with respect to the
16 emergency administration of psychotropic medication and
17 electroconvulsive therapy do not apply to facilities licensed
18 under the Nursing Home Care Act, the Specialized Mental Health
19 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
20 the MC/DD Act.

21 (g) Under no circumstances may long-acting psychotropic
22 medications be administered under this Section.

23 (h) Whenever psychotropic medication or electroconvulsive
24 therapy is refused pursuant to subsection (a) of this Section
25 at least once that day, the physician shall determine and state
26 in writing the reasons why the recipient did not meet the

1 criteria for administration of medication or electroconvulsive
2 therapy under subsection (a) and whether the recipient meets
3 the standard for administration of psychotropic medication or
4 electroconvulsive therapy under Section 2-107.1 of this Code.
5 If the physician determines that the recipient meets the
6 standard for administration of psychotropic medication or
7 electroconvulsive therapy under Section 2-107.1, the facility
8 director or his or her designee shall petition the court for
9 administration of psychotropic medication or electroconvulsive
10 therapy pursuant to that Section unless the facility director
11 or his or her designee states in writing in the recipient's
12 record why the filing of such a petition is not warranted. This
13 subsection (h) applies only to State-operated mental health
14 facilities.

15 (i) The Department shall conduct annual trainings for all
16 physicians and registered nurses working in State-operated
17 mental health facilities on the appropriate use of emergency
18 administration of psychotropic medication and
19 electroconvulsive therapy, standards for their use, and the
20 methods of authorization under this Section.

21 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
22 eff. 7-13-12; 98-104, eff. 7-22-13.)

23 Section 195. The Protection and Advocacy for
24 Developmentally Disabled Persons Act is amended by changing
25 Section 1 as follows:

1 (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

2 Sec. 1. The Governor may designate a private not-for-profit
3 corporation as the agency to administer a State plan to protect
4 and advocate the rights of persons with developmental
5 disabilities pursuant to the requirements of the federal
6 Developmental Disabilities Assistance and Bill of Rights Act,
7 42 U.S.C. 6001 to 6081, as now or hereafter amended. The
8 designated agency may pursue legal, administrative, and other
9 appropriate remedies to ensure the protection of the rights of
10 such persons who are receiving treatment, services or
11 habilitation within this State. The agency designated by the
12 Governor shall be independent of any agency which provides
13 treatment, services, guardianship, or habilitation to persons
14 with developmental disabilities, and such agency shall not be
15 administered by the Governor's Planning Council on
16 Developmental Disabilities or any successor State Planning
17 Council organized pursuant to federal law.

18 The designated agency may receive and expend funds to
19 protect and advocate the rights of persons with developmental
20 disabilities. In order to properly exercise its powers and
21 duties, such agency shall have access to developmental
22 disability facilities and mental health facilities, as defined
23 under Sections 1-107 and 1-114 of the Mental Health and
24 Developmental Disabilities Code, and facilities as defined in
25 Section 1-113 of the Nursing Home Care Act, ~~or~~ Section 1-113 of

1 the ID/DD Community Care Act, or Section 1-113 of the MC/DD
2 Act. Such access shall be granted for the purposes of meeting
3 with residents and staff, informing them of services available
4 from the agency, distributing written information about the
5 agency and the rights of persons with developmental
6 disabilities, conducting scheduled and unscheduled visits, and
7 performing other activities designed to protect the rights of
8 persons with developmental disabilities. The agency also shall
9 have access, for the purpose of inspection and copying, to the
10 records of a person with developmental disabilities who resides
11 in any such facility subject to the limitations of this Act,
12 the Mental Health and Developmental Disabilities
13 Confidentiality Act, the Nursing Home Care Act, ~~and~~ the ID/DD
14 Community Care Act, and the MC/DD Act. The agency also shall
15 have access, for the purpose of inspection and copying, to the
16 records of a person with developmental disabilities who resides
17 in any such facility if (1) a complaint is received by the
18 agency from or on behalf of the person with a developmental
19 disability, and (2) such person does not have a legal guardian
20 or the State or the designee of the State is the legal guardian
21 of such person. The designated agency shall provide written
22 notice to the person with developmental disabilities and the
23 State guardian of the nature of the complaint based upon which
24 the designated agency has gained access to the records. No
25 record or the contents of any record shall be redisclosed by
26 the designated agency unless the person with developmental

1 disabilities and the State guardian are provided 7 days advance
2 written notice, except in emergency situations, of the
3 designated agency's intent to redisclose such record, during
4 which time the person with developmental disabilities or the
5 State guardian may seek to judicially enjoin the designated
6 agency's redisclosure of such record on the grounds that such
7 redisclosure is contrary to the interests of the person with
8 developmental disabilities. Any person who in good faith
9 complains to the designated agency on behalf of a person with
10 developmental disabilities, or provides information or
11 participates in the investigation of any such complaint shall
12 have immunity from any liability, civil, criminal or otherwise,
13 and shall not be subject to any penalties, sanctions,
14 restrictions or retaliation as a consequence of making such
15 complaint, providing such information or participating in such
16 investigation.

17 Upon request, the designated agency shall be entitled to
18 inspect and copy any records or other materials which may
19 further the agency's investigation of problems affecting
20 numbers of persons with developmental disabilities. When
21 required by law any personally identifiable information of
22 persons with developmental disabilities shall be removed from
23 the records. However, the designated agency may not inspect or
24 copy any records or other materials when the removal of
25 personally identifiable information imposes an unreasonable
26 burden on mental health and developmental disabilities

1 facilities pursuant to the Mental Health and Developmental
2 Disabilities Code or facilities as defined in the Nursing Home
3 Care Act, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act.

4 The Governor shall not redesignate the agency to administer
5 the State plan to protect and advocate the rights of persons
6 with developmental disabilities unless there is good cause for
7 the redesignation and unless notice of the intent to make such
8 redesignation is given to persons with developmental
9 disabilities or their representatives, the federal Secretary
10 of Health and Human Services, and the General Assembly at least
11 60 days prior thereto.

12 As used in this Act, the term "developmental disability"
13 means a severe, chronic disability of a person which:

14 (A) is attributable to a mental or physical impairment
15 or combination of mental and physical impairments;

16 (B) is manifested before the person attains age 22;

17 (C) is likely to continue indefinitely;

18 (D) results in substantial functional limitations in 3
19 or more of the following areas of major life activity: (i)
20 self-care, (ii) receptive and expressive language, (iii)
21 learning, (iv) mobility, (v) self-direction, (vi) capacity
22 for independent living, and (vii) economic
23 self-sufficiency; and

24 (E) reflects the person's need for combination and
25 sequence of special, interdisciplinary or generic care,
26 treatment or other services which are of lifelong or

1 extended duration and are individually planned and
2 coordinated.

3 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

4 Section 200. The Protection and Advocacy for Mentally Ill
5 Persons Act is amended by changing Section 3 as follows:

6 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

7 Sec. 3. Powers and Duties.

8 (A) In order to properly exercise its powers and duties,
9 the agency shall have the authority to:

10 (1) Investigate incidents of abuse and neglect of
11 mentally ill persons if the incidents are reported to the
12 agency or if there is probable cause to believe that the
13 incidents occurred. In case of conflict with provisions of
14 the Abused and Neglected Child Reporting Act or the Nursing
15 Home Care Act, the provisions of those Acts shall apply.

16 (2) Pursue administrative, legal and other appropriate
17 remedies to ensure the protection of the rights of mentally
18 ill persons who are receiving care and treatment in this
19 State.

20 (3) Pursue administrative, legal and other remedies on
21 behalf of an individual who:

22 (a) was a mentally ill individual; and

23 (b) is a resident of this State, but only with
24 respect to matters which occur within 90 days after the

1 date of the discharge of such individual from a
2 facility providing care and treatment.

3 (4) Establish a board which shall:

4 (a) advise the protection and advocacy system on
5 policies and priorities to be carried out in protecting
6 and advocating the rights of mentally ill individuals;
7 and

8 (b) include attorneys, mental health
9 professionals, individuals from the public who are
10 knowledgeable about mental illness, a provider of
11 mental health services, individuals who have received
12 or are receiving mental health services and family
13 members of such individuals. At least one-half the
14 members of the board shall be individuals who have
15 received or are receiving mental health services or who
16 are family members of such individuals.

17 (5) On January 1, 1988, and on January 1 of each
18 succeeding year, prepare and transmit to the Secretary of
19 the United States Department of Health and Human Services
20 and to the Illinois Secretary of Human Services a report
21 describing the activities, accomplishments and
22 expenditures of the protection and advocacy system during
23 the most recently completed fiscal year.

24 (B) The agency shall have access to all mental health
25 facilities as defined in Sections 1-107 and 1-114 of the Mental
26 Health and Developmental Disabilities Code, all facilities as

1 defined in Section 1-113 of the Nursing Home Care Act, all
2 facilities as defined in Section 1-102 of the Specialized
3 Mental Health Rehabilitation Act of 2013, all facilities as
4 defined in Section 1-113 of the ID/DD Community Care Act, all
5 facilities as defined in Section 1-113 of the MC/DD Act, all
6 facilities as defined in Section 2.06 of the Child Care Act of
7 1969, as now or hereafter amended, and all other facilities
8 providing care or treatment to mentally ill persons. Such
9 access shall be granted for the purposes of meeting with
10 residents and staff, informing them of services available from
11 the agency, distributing written information about the agency
12 and the rights of persons who are mentally ill, conducting
13 scheduled and unscheduled visits, and performing other
14 activities designed to protect the rights of mentally ill
15 persons.

16 (C) The agency shall have access to all records of mentally
17 ill persons who are receiving care or treatment from a
18 facility, subject to the limitations of this Act, the Mental
19 Health and Developmental Disabilities Confidentiality Act, the
20 Nursing Home Care Act and the Child Care Act of 1969, as now or
21 hereafter amended. If the mentally ill person has a legal
22 guardian other than the State or a designee of the State, the
23 facility director shall disclose the guardian's name, address
24 and telephone number to the agency upon its request. In cases
25 of conflict with provisions of the Abused and Neglected Child
26 Reporting Act and the Nursing Home Care Act, the provisions of

1 the Abused and Neglected Child Reporting Act and the Nursing
2 Home Care Act shall apply. The agency shall also have access,
3 for the purpose of inspection and copying, to the records of a
4 mentally ill person (i) who by reason of his or her mental or
5 physical condition is unable to authorize the agency to have
6 such access; (ii) who does not have a legal guardian or for
7 whom the State or a designee of the State is the legal
8 guardian; and (iii) with respect to whom a complaint has been
9 received by the agency or with respect to whom there is
10 probable cause to believe that such person has been subjected
11 to abuse or neglect.

12 The agency shall provide written notice to the mentally ill
13 person and the State guardian of the nature of the complaint
14 based upon which the agency has gained access to the records.
15 No record or the contents of the record shall be redisclosed by
16 the agency unless the person who is mentally ill and the State
17 guardian are provided 7 days advance written notice, except in
18 emergency situations, of the agency's intent to redisclose such
19 record. Within such 7-day period, the mentally ill person or
20 the State guardian may seek an injunction prohibiting the
21 agency's redisclosure of such record on the grounds that such
22 redisclosure is contrary to the interests of the mentally ill
23 person.

24 Upon request, the authorized agency shall be entitled to
25 inspect and copy any clinical or trust fund records of mentally
26 ill persons which may further the agency's investigation of

1 alleged problems affecting numbers of mentally ill persons.
2 When required by law, any personally identifiable information
3 of mentally ill persons shall be removed from the records.
4 However, the agency may not inspect or copy any records or
5 other materials when the removal of personally identifiable
6 information imposes an unreasonable burden on any facility as
7 defined by the Mental Health and Developmental Disabilities
8 Code, the Nursing Home Care Act, the Specialized Mental Health
9 Rehabilitation Act of 2013, or the Child Care Act of 1969, or
10 any other facility providing care or treatment to mentally ill
11 persons.

12 (D) Prior to instituting any legal action in a federal or
13 State court on behalf of a mentally ill individual, an eligible
14 protection and advocacy system, or a State agency or nonprofit
15 organization which entered into a contract with such an
16 eligible system under Section 104(a) of the federal Protection
17 and Advocacy for Mentally Ill Individuals Act of 1986, shall
18 exhaust in a timely manner all administrative remedies where
19 appropriate. If, in pursuing administrative remedies, the
20 system, State agency or organization determines that any matter
21 with respect to such individual will not be resolved within a
22 reasonable time, the system, State agency or organization may
23 pursue alternative remedies, including the initiation of
24 appropriate legal action.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
26 eff. 7-13-12; 98-104, eff. 7-22-13.)

1 Section 205. The Developmental Disability and Mental
2 Disability Services Act is amended by changing Sections 2-3 and
3 5-1 as follows:

4 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

5 Sec. 2-3. As used in this Article, unless the context
6 requires otherwise:

7 (a) "Agency" means an agency or entity licensed by the
8 Department pursuant to this Article or pursuant to the
9 Community Residential Alternatives Licensing Act.

10 (b) "Department" means the Department of Human Services, as
11 successor to the Department of Mental Health and Developmental
12 Disabilities.

13 (c) "Home-based services" means services provided to a
14 mentally disabled adult who lives in his or her own home. These
15 services include but are not limited to:

16 (1) home health services;

17 (2) case management;

18 (3) crisis management;

19 (4) training and assistance in self-care;

20 (5) personal care services;

21 (6) habilitation and rehabilitation services;

22 (7) employment-related services;

23 (8) respite care; and

24 (9) other skill training that enables a person to

1 become self-supporting.

2 (d) "Legal guardian" means a person appointed by a court of
3 competent jurisdiction to exercise certain powers on behalf of
4 a mentally disabled adult.

5 (e) "Mentally disabled adult" means a person over the age
6 of 18 years who lives in his or her own home; who needs
7 home-based services, but does not require 24-hour-a-day
8 supervision; and who has one of the following conditions:
9 severe autism, severe mental illness, a severe or profound
10 intellectual disability, or severe and multiple impairments.

11 (f) In one's "own home" means that a mentally disabled
12 adult lives alone; or that a mentally disabled adult is in
13 full-time residence with his or her parents, legal guardian, or
14 other relatives; or that a mentally disabled adult is in
15 full-time residence in a setting not subject to licensure under
16 the Nursing Home Care Act, the Specialized Mental Health
17 Rehabilitation Act of 2013, the ID/DD Community Care Act, the
18 MC/DD Act, or the Child Care Act of 1969, as now or hereafter
19 amended, with 3 or fewer other adults unrelated to the mentally
20 disabled adult who do not provide home-based services to the
21 mentally disabled adult.

22 (g) "Parent" means the biological or adoptive parent of a
23 mentally disabled adult, or a person licensed as a foster
24 parent under the laws of this State who acts as a mentally
25 disabled adult's foster parent.

26 (h) "Relative" means any of the following relationships by

1 blood, marriage or adoption: parent, son, daughter, brother,
2 sister, grandparent, uncle, aunt, nephew, niece, great
3 grandparent, great uncle, great aunt, stepbrother, stepsister,
4 stepson, stepdaughter, stepparent or first cousin.

5 (i) "Severe autism" means a lifelong developmental
6 disability which is typically manifested before 30 months of
7 age and is characterized by severe disturbances in reciprocal
8 social interactions; verbal and nonverbal communication and
9 imaginative activity; and repertoire of activities and
10 interests. A person shall be determined severely autistic, for
11 purposes of this Article, if both of the following are present:

12 (1) Diagnosis consistent with the criteria for
13 autistic disorder in the current edition of the Diagnostic
14 and Statistical Manual of Mental Disorders.

15 (2) Severe disturbances in reciprocal social
16 interactions; verbal and nonverbal communication and
17 imaginative activity; repertoire of activities and
18 interests. A determination of severe autism shall be based
19 upon a comprehensive, documented assessment with an
20 evaluation by a licensed clinical psychologist or
21 psychiatrist. A determination of severe autism shall not be
22 based solely on behaviors relating to environmental,
23 cultural or economic differences.

24 (j) "Severe mental illness" means the manifestation of all
25 of the following characteristics:

26 (1) A primary diagnosis of one of the major mental

1 disorders in the current edition of the Diagnostic and
2 Statistical Manual of Mental Disorders listed below:

- 3 (A) Schizophrenia disorder.
- 4 (B) Delusional disorder.
- 5 (C) Schizo-affective disorder.
- 6 (D) Bipolar affective disorder.
- 7 (E) Atypical psychosis.
- 8 (F) Major depression, recurrent.

9 (2) The individual's mental illness must substantially
10 impair his or her functioning in at least 2 of the
11 following areas:

- 12 (A) Self-maintenance.
- 13 (B) Social functioning.
- 14 (C) Activities of community living.
- 15 (D) Work skills.

16 (3) Disability must be present or expected to be
17 present for at least one year.

18 A determination of severe mental illness shall be based
19 upon a comprehensive, documented assessment with an evaluation
20 by a licensed clinical psychologist or psychiatrist, and shall
21 not be based solely on behaviors relating to environmental,
22 cultural or economic differences.

23 (k) "Severe or profound intellectual disability" means a
24 manifestation of all of the following characteristics:

25 (1) A diagnosis which meets Classification in Mental
26 Retardation or criteria in the current edition of the

1 Diagnostic and Statistical Manual of Mental Disorders for
2 severe or profound mental retardation (an IQ of 40 or
3 below). This must be measured by a standardized instrument
4 for general intellectual functioning.

5 (2) A severe or profound level of disturbed adaptive
6 behavior. This must be measured by a standardized adaptive
7 behavior scale or informal appraisal by the professional in
8 keeping with illustrations in Classification in Mental
9 Retardation, 1983.

10 (3) Disability diagnosed before age of 18.

11 A determination of a severe or profound intellectual
12 disability shall be based upon a comprehensive, documented
13 assessment with an evaluation by a licensed clinical
14 psychologist or certified school psychologist or a
15 psychiatrist, and shall not be based solely on behaviors
16 relating to environmental, cultural or economic differences.

17 (1) "Severe and multiple impairments" means the
18 manifestation of all of the following characteristics:

19 (1) The evaluation determines the presence of a
20 developmental disability which is expected to continue
21 indefinitely, constitutes a substantial handicap and is
22 attributable to any of the following:

23 (A) Intellectual disability, which is defined as
24 general intellectual functioning that is 2 or more
25 standard deviations below the mean concurrent with
26 impairment of adaptive behavior which is 2 or more

1 standard deviations below the mean. Assessment of the
2 individual's intellectual functioning must be measured
3 by a standardized instrument for general intellectual
4 functioning.

5 (B) Cerebral palsy.

6 (C) Epilepsy.

7 (D) Autism.

8 (E) Any other condition which results in
9 impairment similar to that caused by an intellectual
10 disability and which requires services similar to
11 those required by intellectually disabled persons.

12 (2) The evaluation determines multiple handicaps in
13 physical, sensory, behavioral or cognitive functioning
14 which constitute a severe or profound impairment
15 attributable to one or more of the following:

16 (A) Physical functioning, which severely impairs
17 the individual's motor performance that may be due to:

18 (i) Neurological, psychological or physical
19 involvement resulting in a variety of disabling
20 conditions such as hemiplegia, quadriplegia or
21 ataxia,

22 (ii) Severe organ systems involvement such as
23 congenital heart defect,

24 (iii) Physical abnormalities resulting in the
25 individual being non-mobile and non-ambulatory or
26 confined to bed and receiving assistance in

1 transferring, or

2 (iv) The need for regular medical or nursing
3 supervision such as gastrostomy care and feeding.

4 Assessment of physical functioning must be based
5 on clinical medical assessment by a physician licensed
6 to practice medicine in all its branches, using the
7 appropriate instruments, techniques and standards of
8 measurement required by the professional.

9 (B) Sensory, which involves severe restriction due
10 to hearing or visual impairment limiting the
11 individual's movement and creating dependence in
12 completing most daily activities. Hearing impairment
13 is defined as a loss of 70 decibels aided or speech
14 discrimination of less than 50% aided. Visual
15 impairment is defined as 20/200 corrected in the better
16 eye or a visual field of 20 degrees or less. Sensory
17 functioning must be based on clinical medical
18 assessment by a physician licensed to practice
19 medicine in all its branches using the appropriate
20 instruments, techniques and standards of measurement
21 required by the professional.

22 (C) Behavioral, which involves behavior that is
23 maladaptive and presents a danger to self or others, is
24 destructive to property by deliberately breaking,
25 destroying or defacing objects, is disruptive by
26 fighting, or has other socially offensive behaviors in

1 sufficient frequency or severity to seriously limit
2 social integration. Assessment of behavioral
3 functioning may be measured by a standardized scale or
4 informal appraisal by a clinical psychologist or
5 psychiatrist.

6 (D) Cognitive, which involves intellectual
7 functioning at a measured IQ of 70 or below. Assessment
8 of cognitive functioning must be measured by a
9 standardized instrument for general intelligence.

10 (3) The evaluation determines that development is
11 substantially less than expected for the age in cognitive,
12 affective or psychomotor behavior as follows:

13 (A) Cognitive, which involves intellectual
14 functioning at a measured IQ of 70 or below. Assessment
15 of cognitive functioning must be measured by a
16 standardized instrument for general intelligence.

17 (B) Affective behavior, which involves over and
18 under responding to stimuli in the environment and may
19 be observed in mood, attention to awareness, or in
20 behaviors such as euphoria, anger or sadness that
21 seriously limit integration into society. Affective
22 behavior must be based on clinical assessment using the
23 appropriate instruments, techniques and standards of
24 measurement required by the professional.

25 (C) Psychomotor, which includes a severe
26 developmental delay in fine or gross motor skills so

1 that development in self-care, social interaction,
2 communication or physical activity will be greatly
3 delayed or restricted.

4 (4) A determination that the disability originated
5 before the age of 18 years.

6 A determination of severe and multiple impairments shall be
7 based upon a comprehensive, documented assessment with an
8 evaluation by a licensed clinical psychologist or
9 psychiatrist.

10 If the examiner is a licensed clinical psychologist,
11 ancillary evaluation of physical impairment, cerebral palsy or
12 epilepsy must be made by a physician licensed to practice
13 medicine in all its branches.

14 Regardless of the discipline of the examiner, ancillary
15 evaluation of visual impairment must be made by an
16 ophthalmologist or a licensed optometrist.

17 Regardless of the discipline of the examiner, ancillary
18 evaluation of hearing impairment must be made by an
19 otolaryngologist or an audiologist with a certificate of
20 clinical competency.

21 The only exception to the above is in the case of a person
22 with cerebral palsy or epilepsy who, according to the
23 eligibility criteria listed below, has multiple impairments
24 which are only physical and sensory. In such a case, a
25 physician licensed to practice medicine in all its branches may
26 serve as the examiner.

1 (m) "Twenty-four-hour-a-day supervision" means
2 24-hour-a-day care by a trained mental health or developmental
3 disability professional on an ongoing basis.
4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 98-104, eff. 7-22-13.)

6 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

7 Sec. 5-1. As the mental health and developmental
8 disabilities or intellectual disabilities authority for the
9 State of Illinois, the Department of Human Services shall have
10 the authority to license, certify and prescribe standards
11 governing the programs and services provided under this Act, as
12 well as all other agencies or programs which provide home-based
13 or community-based services to the mentally disabled, except
14 those services, programs or agencies established under or
15 otherwise subject to the Child Care Act of 1969, the
16 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
17 ID/DD Community Care Act, or the MC/DD Act, as now or hereafter
18 amended, and this Act shall not be construed to limit the
19 application of those Acts.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 98-104, eff. 7-22-13.)

22 Section 210. The Medical Patient Rights Act is amended by
23 changing Section 6 as follows:

1 (410 ILCS 50/6)

2 Sec. 6. Identification badges. A health care facility that
3 provides treatment or care to a patient in this State shall
4 require each employee of or volunteer for the facility,
5 including a student, who examines or treats a patient or
6 resident of the facility to wear an identification badge that
7 readily discloses the first name, licensure status, if any, and
8 staff position of the person examining or treating the patient
9 or resident. This Section does not apply to a facility licensed
10 or certified under the ID/DD Community Care Act, the MC/DD Act,
11 or the Community-Integrated Living Arrangements Licensure and
12 Certification Act.

13 (Source: P.A. 98-243, eff. 1-1-14; 98-890, eff. 1-1-15.)

14 Section 215. The Facilities Requiring Smoke Detectors Act
15 is amended by changing Section 1 as follows:

16 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

17 Sec. 1. For purposes of this Act, unless the context
18 requires otherwise:

19 (a) "Facility" means:

20 (1) Any long-term care facility as defined in Section
21 1-113 of the Nursing Home Care Act or any facility as
22 defined in Section 1-113 of the ID/DD Community Care Act, the
23 Section 1-113 of the MC/DD Act, or the Specialized Mental
24 Health Rehabilitation Act of 2013, as amended;

1 (2) Any community residential alternative as defined
2 in paragraph (4) of Section 3 of the Community Residential
3 Alternatives Licensing Act, as amended; and

4 (3) Any child care facility as defined in Section 2.05
5 of the Child Care Act of 1969, as amended.

6 (b) "Approved smoke detector" or "detector" means a smoke
7 detector of the ionization or photoelectric type which complies
8 with all the requirements of the rules and regulations of the
9 Illinois State Fire Marshal.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 98-104, eff. 7-22-13.)

12 Section 220. The Criminal Code of 2012 is amended by
13 changing Sections 12-4.4a and 26-1 as follows:

14 (720 ILCS 5/12-4.4a)

15 Sec. 12-4.4a. Abuse or criminal neglect of a long term care
16 facility resident; criminal abuse or neglect of an elderly
17 person or person with a disability.

18 (a) Abuse or criminal neglect of a long term care facility
19 resident.

20 (1) A person or an owner or licensee commits abuse of a
21 long term care facility resident when he or she knowingly
22 causes any physical or mental injury to, or commits any
23 sexual offense in this Code against, a resident.

24 (2) A person or an owner or licensee commits criminal

1 neglect of a long term care facility resident when he or
2 she recklessly:

3 (A) performs acts that cause a resident's life to
4 be endangered, health to be injured, or pre-existing
5 physical or mental condition to deteriorate, or that
6 create the substantial likelihood that an elderly
7 person's or person with a disability's life will be
8 endangered, health will be injured, or pre-existing
9 physical or mental condition will deteriorate;

10 (B) fails to perform acts that he or she knows or
11 reasonably should know are necessary to maintain or
12 preserve the life or health of a resident, and that
13 failure causes the resident's life to be endangered,
14 health to be injured, or pre-existing physical or
15 mental condition to deteriorate, or that create the
16 substantial likelihood that an elderly person's or
17 person with a disability's life will be endangered,
18 health will be injured, or pre-existing physical or
19 mental condition will deteriorate; or

20 (C) abandons a resident.

21 (3) A person or an owner or licensee commits neglect of
22 a long term care facility resident when he or she
23 negligently fails to provide adequate medical care,
24 personal care, or maintenance to the resident which results
25 in physical or mental injury or deterioration of the
26 resident's physical or mental condition. An owner or

1 licensee is guilty under this subdivision (a)(3), however,
2 only if the owner or licensee failed to exercise reasonable
3 care in the hiring, training, supervising, or providing of
4 staff or other related routine administrative
5 responsibilities.

6 (b) Criminal abuse or neglect of an elderly person or
7 person with a disability.

8 (1) A caregiver commits criminal abuse or neglect of an
9 elderly person or person with a disability when he or she
10 knowingly does any of the following:

11 (A) performs acts that cause the person's life to
12 be endangered, health to be injured, or pre-existing
13 physical or mental condition to deteriorate;

14 (B) fails to perform acts that he or she knows or
15 reasonably should know are necessary to maintain or
16 preserve the life or health of the person, and that
17 failure causes the person's life to be endangered,
18 health to be injured, or pre-existing physical or
19 mental condition to deteriorate;

20 (C) abandons the person;

21 (D) physically abuses, harasses, intimidates, or
22 interferes with the personal liberty of the person; or

23 (E) exposes the person to willful deprivation.

24 (2) It is not a defense to criminal abuse or neglect of
25 an elderly person or person with a disability that the
26 caregiver reasonably believed that the victim was not an

1 elderly person or person with a disability.

2 (c) Offense not applicable.

3 (1) Nothing in this Section applies to a physician
4 licensed to practice medicine in all its branches or a duly
5 licensed nurse providing care within the scope of his or
6 her professional judgment and within the accepted
7 standards of care within the community.

8 (2) Nothing in this Section imposes criminal liability
9 on a caregiver who made a good faith effort to provide for
10 the health and personal care of an elderly person or person
11 with a disability, but through no fault of his or her own
12 was unable to provide such care.

13 (3) Nothing in this Section applies to the medical
14 supervision, regulation, or control of the remedial care or
15 treatment of residents in a long term care facility
16 conducted for those who rely upon treatment by prayer or
17 spiritual means in accordance with the creed or tenets of
18 any well-recognized church or religious denomination as
19 described in Section 3-803 of the Nursing Home Care Act,
20 Section 1-102 of the Specialized Mental Health
21 Rehabilitation Act of 2013, ~~or~~ Section 3-803 of the ID/DD
22 Community Care Act, or Section 3-803 of the MC/DD Act.

23 (4) Nothing in this Section prohibits a caregiver from
24 providing treatment to an elderly person or person with a
25 disability by spiritual means through prayer alone and care
26 consistent therewith in lieu of medical care and treatment

1 in accordance with the tenets and practices of any church
2 or religious denomination of which the elderly person or
3 person with a disability is a member.

4 (5) Nothing in this Section limits the remedies
5 available to the victim under the Illinois Domestic
6 Violence Act of 1986.

7 (d) Sentence.

8 (1) Long term care facility. Abuse of a long term care
9 facility resident is a Class 3 felony. Criminal neglect of
10 a long term care facility resident is a Class 4 felony,
11 unless it results in the resident's death in which case it
12 is a Class 3 felony. Neglect of a long term care facility
13 resident is a petty offense.

14 (2) Caregiver. Criminal abuse or neglect of an elderly
15 person or person with a disability is a Class 3 felony,
16 unless it results in the person's death in which case it is
17 a Class 2 felony, and if imprisonment is imposed it shall
18 be for a minimum term of 3 years and a maximum term of 14
19 years.

20 (e) Definitions. For the purposes of this Section:

21 "Abandon" means to desert or knowingly forsake a resident
22 or an elderly person or person with a disability under
23 circumstances in which a reasonable person would continue to
24 provide care and custody.

25 "Caregiver" means a person who has a duty to provide for an
26 elderly person or person with a disability's health and

1 personal care, at the elderly person or person with a
2 disability's place of residence, including, but not limited to,
3 food and nutrition, shelter, hygiene, prescribed medication,
4 and medical care and treatment, and includes any of the
5 following:

6 (1) A parent, spouse, adult child, or other relative by
7 blood or marriage who resides with or resides in the same
8 building with or regularly visits the elderly person or
9 person with a disability, knows or reasonably should know
10 of such person's physical or mental impairment, and knows
11 or reasonably should know that such person is unable to
12 adequately provide for his or her own health and personal
13 care.

14 (2) A person who is employed by the elderly person or
15 person with a disability or by another to reside with or
16 regularly visit the elderly person or person with a
17 disability and provide for such person's health and
18 personal care.

19 (3) A person who has agreed for consideration to reside
20 with or regularly visit the elderly person or person with a
21 disability and provide for such person's health and
22 personal care.

23 (4) A person who has been appointed by a private or
24 public agency or by a court of competent jurisdiction to
25 provide for the elderly person or person with a
26 disability's health and personal care.

1 "Caregiver" does not include a long-term care facility
2 licensed or certified under the Nursing Home Care Act or a
3 facility licensed or certified under the ID/DD Community Care
4 Act, the MC/DD Act, or the Specialized Mental Health
5 Rehabilitation Act of 2013, or any administrative, medical, or
6 other personnel of such a facility, or a health care provider
7 who is licensed under the Medical Practice Act of 1987 and
8 renders care in the ordinary course of his or her profession.

9 "Elderly person" means a person 60 years of age or older
10 who is incapable of adequately providing for his or her own
11 health and personal care.

12 "Licensee" means the individual or entity licensed to
13 operate a facility under the Nursing Home Care Act, the
14 Specialized Mental Health Rehabilitation Act of 2013, the ID/DD
15 Community Care Act, the MC/DD Act, or the Assisted Living and
16 Shared Housing Act.

17 "Long term care facility" means a private home,
18 institution, building, residence, or other place, whether
19 operated for profit or not, or a county home for the infirm and
20 chronically ill operated pursuant to Division 5-21 or 5-22 of
21 the Counties Code, or any similar institution operated by the
22 State of Illinois or a political subdivision thereof, which
23 provides, through its ownership or management, personal care,
24 sheltered care, or nursing for 3 or more persons not related to
25 the owner by blood or marriage. The term also includes skilled
26 nursing facilities and intermediate care facilities as defined

1 in Titles XVIII and XIX of the federal Social Security Act and
2 assisted living establishments and shared housing
3 establishments licensed under the Assisted Living and Shared
4 Housing Act.

5 "Owner" means the owner a long term care facility as
6 provided in the Nursing Home Care Act, the owner of a facility
7 as provided under the Specialized Mental Health Rehabilitation
8 Act of 2013, the owner of a facility as provided in the ID/DD
9 Community Care Act, the owner of a facility as provided in the
10 MC/DD Act, or the owner of an assisted living or shared housing
11 establishment as provided in the Assisted Living and Shared
12 Housing Act.

13 "Person with a disability" means a person who suffers from
14 a permanent physical or mental impairment, resulting from
15 disease, injury, functional disorder, or congenital condition,
16 which renders the person incapable of adequately providing for
17 his or her own health and personal care.

18 "Resident" means a person residing in a long term care
19 facility.

20 "Willful deprivation" has the meaning ascribed to it in
21 paragraph (15) of Section 103 of the Illinois Domestic Violence
22 Act of 1986.

23 (Source: P.A. 96-1551, eff. 7-1-11; incorporates 97-38, eff.
24 6-28-11, and 97-227, eff. 1-1-12; 97-1109, eff. 1-1-13; 98-104,
25 eff. 7-22-13.)

1 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

2 Sec. 26-1. Disorderly conduct.

3 (a) A person commits disorderly conduct when he or she
4 knowingly:

5 (1) Does any act in such unreasonable manner as to
6 alarm or disturb another and to provoke a breach of the
7 peace;

8 (2) Transmits or causes to be transmitted in any manner
9 to the fire department of any city, town, village or fire
10 protection district a false alarm of fire, knowing at the
11 time of the transmission that there is no reasonable ground
12 for believing that the fire exists;

13 (3) Transmits or causes to be transmitted in any manner
14 to another a false alarm to the effect that a bomb or other
15 explosive of any nature or a container holding poison gas,
16 a deadly biological or chemical contaminant, or
17 radioactive substance is concealed in a place where its
18 explosion or release would endanger human life, knowing at
19 the time of the transmission that there is no reasonable
20 ground for believing that the bomb, explosive or a
21 container holding poison gas, a deadly biological or
22 chemical contaminant, or radioactive substance is
23 concealed in the place;

24 (3.5) Transmits or causes to be transmitted a threat of
25 destruction of a school building or school property, or a
26 threat of violence, death, or bodily harm directed against

1 persons at a school, school function, or school event,
2 whether or not school is in session;

3 (4) Transmits or causes to be transmitted in any manner
4 to any peace officer, public officer or public employee a
5 report to the effect that an offense will be committed, is
6 being committed, or has been committed, knowing at the time
7 of the transmission that there is no reasonable ground for
8 believing that the offense will be committed, is being
9 committed, or has been committed;

10 (5) Transmits or causes to be transmitted a false
11 report to any public safety agency without the reasonable
12 grounds necessary to believe that transmitting the report
13 is necessary for the safety and welfare of the public; or

14 (6) Calls the number "911" for the purpose of making or
15 transmitting a false alarm or complaint and reporting
16 information when, at the time the call or transmission is
17 made, the person knows there is no reasonable ground for
18 making the call or transmission and further knows that the
19 call or transmission could result in the emergency response
20 of any public safety agency;

21 (7) Transmits or causes to be transmitted a false
22 report to the Department of Children and Family Services
23 under Section 4 of the "Abused and Neglected Child
24 Reporting Act";

25 (8) Transmits or causes to be transmitted a false
26 report to the Department of Public Health under the Nursing

1 Home Care Act, the Specialized Mental Health
2 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
3 Act, or the MC/DD Act;

4 (9) Transmits or causes to be transmitted in any manner
5 to the police department or fire department of any
6 municipality or fire protection district, or any privately
7 owned and operated ambulance service, a false request for
8 an ambulance, emergency medical technician-ambulance or
9 emergency medical technician-paramedic knowing at the time
10 there is no reasonable ground for believing that the
11 assistance is required;

12 (10) Transmits or causes to be transmitted a false
13 report under Article II of "An Act in relation to victims
14 of violence and abuse", approved September 16, 1984, as
15 amended;

16 (11) Enters upon the property of another and for a lewd
17 or unlawful purpose deliberately looks into a dwelling on
18 the property through any window or other opening in it; or

19 (12) While acting as a collection agency as defined in
20 the Collection Agency Act or as an employee of the
21 collection agency, and while attempting to collect an
22 alleged debt, makes a telephone call to the alleged debtor
23 which is designed to harass, annoy or intimidate the
24 alleged debtor.

25 (b) Sentence. A violation of subsection (a)(1) of this
26 Section is a Class C misdemeanor. A violation of subsection

1 (a) (5) or (a) (11) of this Section is a Class A misdemeanor. A
2 violation of subsection (a) (8) or (a) (10) of this Section is a
3 Class B misdemeanor. A violation of subsection (a) (2),
4 (a) (3.5), (a) (4), (a) (6), (a) (7), or (a) (9) of this Section is
5 a Class 4 felony. A violation of subsection (a) (3) of this
6 Section is a Class 3 felony, for which a fine of not less than
7 \$3,000 and no more than \$10,000 shall be assessed in addition
8 to any other penalty imposed.

9 A violation of subsection (a) (12) of this Section is a
10 Business Offense and shall be punished by a fine not to exceed
11 \$3,000. A second or subsequent violation of subsection (a) (7)
12 or (a) (5) of this Section is a Class 4 felony. A third or
13 subsequent violation of subsection (a) (11) of this Section is a
14 Class 4 felony.

15 (c) In addition to any other sentence that may be imposed,
16 a court shall order any person convicted of disorderly conduct
17 to perform community service for not less than 30 and not more
18 than 120 hours, if community service is available in the
19 jurisdiction and is funded and approved by the county board of
20 the county where the offense was committed. In addition,
21 whenever any person is placed on supervision for an alleged
22 offense under this Section, the supervision shall be
23 conditioned upon the performance of the community service.

24 This subsection does not apply when the court imposes a
25 sentence of incarceration.

26 (d) In addition to any other sentence that may be imposed,

1 the court shall order any person convicted of disorderly
2 conduct under paragraph (3) of subsection (a) involving a false
3 alarm of a threat that a bomb or explosive device has been
4 placed in a school to reimburse the unit of government that
5 employs the emergency response officer or officers that were
6 dispatched to the school for the cost of the search for a bomb
7 or explosive device. For the purposes of this Section,
8 "emergency response" means any incident requiring a response by
9 a police officer, a firefighter, a State Fire Marshal employee,
10 or an ambulance.

11 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
12 eff. 7-13-12; 97-1108, eff. 1-1-13; 98-104, eff. 7-22-13.)

13 Section 225. The Unified Code of Corrections is amended by
14 changing Section 5-5-3.2 as follows:

15 (730 ILCS 5/5-5-3.2)

16 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term
17 Sentencing.

18 (a) The following factors shall be accorded weight in favor
19 of imposing a term of imprisonment or may be considered by the
20 court as reasons to impose a more severe sentence under Section
21 5-8-1 or Article 4.5 of Chapter V:

22 (1) the defendant's conduct caused or threatened
23 serious harm;

24 (2) the defendant received compensation for committing

1 the offense;

2 (3) the defendant has a history of prior delinquency or
3 criminal activity;

4 (4) the defendant, by the duties of his office or by
5 his position, was obliged to prevent the particular offense
6 committed or to bring the offenders committing it to
7 justice;

8 (5) the defendant held public office at the time of the
9 offense, and the offense related to the conduct of that
10 office;

11 (6) the defendant utilized his professional reputation
12 or position in the community to commit the offense, or to
13 afford him an easier means of committing it;

14 (7) the sentence is necessary to deter others from
15 committing the same crime;

16 (8) the defendant committed the offense against a
17 person 60 years of age or older or such person's property;

18 (9) the defendant committed the offense against a
19 person who is physically handicapped or such person's
20 property;

21 (10) by reason of another individual's actual or
22 perceived race, color, creed, religion, ancestry, gender,
23 sexual orientation, physical or mental disability, or
24 national origin, the defendant committed the offense
25 against (i) the person or property of that individual; (ii)
26 the person or property of a person who has an association

1 with, is married to, or has a friendship with the other
2 individual; or (iii) the person or property of a relative
3 (by blood or marriage) of a person described in clause (i)
4 or (ii). For the purposes of this Section, "sexual
5 orientation" means heterosexuality, homosexuality, or
6 bisexuality;

7 (11) the offense took place in a place of worship or on
8 the grounds of a place of worship, immediately prior to,
9 during or immediately following worship services. For
10 purposes of this subparagraph, "place of worship" shall
11 mean any church, synagogue or other building, structure or
12 place used primarily for religious worship;

13 (12) the defendant was convicted of a felony committed
14 while he was released on bail or his own recognizance
15 pending trial for a prior felony and was convicted of such
16 prior felony, or the defendant was convicted of a felony
17 committed while he was serving a period of probation,
18 conditional discharge, or mandatory supervised release
19 under subsection (d) of Section 5-8-1 for a prior felony;

20 (13) the defendant committed or attempted to commit a
21 felony while he was wearing a bulletproof vest. For the
22 purposes of this paragraph (13), a bulletproof vest is any
23 device which is designed for the purpose of protecting the
24 wearer from bullets, shot or other lethal projectiles;

25 (14) the defendant held a position of trust or
26 supervision such as, but not limited to, family member as

1 defined in Section 11-0.1 of the Criminal Code of 2012,
2 teacher, scout leader, baby sitter, or day care worker, in
3 relation to a victim under 18 years of age, and the
4 defendant committed an offense in violation of Section
5 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,
6 11-14.4 except for an offense that involves keeping a place
7 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
8 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
9 or 12-16 of the Criminal Code of 1961 or the Criminal Code
10 of 2012 against that victim;

11 (15) the defendant committed an offense related to the
12 activities of an organized gang. For the purposes of this
13 factor, "organized gang" has the meaning ascribed to it in
14 Section 10 of the Streetgang Terrorism Omnibus Prevention
15 Act;

16 (16) the defendant committed an offense in violation of
17 one of the following Sections while in a school, regardless
18 of the time of day or time of year; on any conveyance
19 owned, leased, or contracted by a school to transport
20 students to or from school or a school related activity; on
21 the real property of a school; or on a public way within
22 1,000 feet of the real property comprising any school:
23 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
24 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
25 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
26 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,

1 18-2, or 33A-2, or Section 12-3.05 except for subdivision
2 (a)(4) or (g)(1), of the Criminal Code of 1961 or the
3 Criminal Code of 2012;

4 (16.5) the defendant committed an offense in violation
5 of one of the following Sections while in a day care
6 center, regardless of the time of day or time of year; on
7 the real property of a day care center, regardless of the
8 time of day or time of year; or on a public way within
9 1,000 feet of the real property comprising any day care
10 center, regardless of the time of day or time of year:
11 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
12 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
13 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
14 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
15 18-2, or 33A-2, or Section 12-3.05 except for subdivision
16 (a)(4) or (g)(1), of the Criminal Code of 1961 or the
17 Criminal Code of 2012;

18 (17) the defendant committed the offense by reason of
19 any person's activity as a community policing volunteer or
20 to prevent any person from engaging in activity as a
21 community policing volunteer. For the purpose of this
22 Section, "community policing volunteer" has the meaning
23 ascribed to it in Section 2-3.5 of the Criminal Code of
24 2012;

25 (18) the defendant committed the offense in a nursing
26 home or on the real property comprising a nursing home. For

1 the purposes of this paragraph (18), "nursing home" means a
2 skilled nursing or intermediate long term care facility
3 that is subject to license by the Illinois Department of
4 Public Health under the Nursing Home Care Act, the
5 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
6 the ID/DD Community Care Act, or the MC/DD Act;

7 (19) the defendant was a federally licensed firearm
8 dealer and was previously convicted of a violation of
9 subsection (a) of Section 3 of the Firearm Owners
10 Identification Card Act and has now committed either a
11 felony violation of the Firearm Owners Identification Card
12 Act or an act of armed violence while armed with a firearm;

13 (20) the defendant (i) committed the offense of
14 reckless homicide under Section 9-3 of the Criminal Code of
15 1961 or the Criminal Code of 2012 or the offense of driving
16 under the influence of alcohol, other drug or drugs,
17 intoxicating compound or compounds or any combination
18 thereof under Section 11-501 of the Illinois Vehicle Code
19 or a similar provision of a local ordinance and (ii) was
20 operating a motor vehicle in excess of 20 miles per hour
21 over the posted speed limit as provided in Article VI of
22 Chapter 11 of the Illinois Vehicle Code;

23 (21) the defendant (i) committed the offense of
24 reckless driving or aggravated reckless driving under
25 Section 11-503 of the Illinois Vehicle Code and (ii) was
26 operating a motor vehicle in excess of 20 miles per hour

1 over the posted speed limit as provided in Article VI of
2 Chapter 11 of the Illinois Vehicle Code;

3 (22) the defendant committed the offense against a
4 person that the defendant knew, or reasonably should have
5 known, was a member of the Armed Forces of the United
6 States serving on active duty. For purposes of this clause
7 (22), the term "Armed Forces" means any of the Armed Forces
8 of the United States, including a member of any reserve
9 component thereof or National Guard unit called to active
10 duty;

11 (23) the defendant committed the offense against a
12 person who was elderly, disabled, or infirm by taking
13 advantage of a family or fiduciary relationship with the
14 elderly, disabled, or infirm person;

15 (24) the defendant committed any offense under Section
16 11-20.1 of the Criminal Code of 1961 or the Criminal Code
17 of 2012 and possessed 100 or more images;

18 (25) the defendant committed the offense while the
19 defendant or the victim was in a train, bus, or other
20 vehicle used for public transportation;

21 (26) the defendant committed the offense of child
22 pornography or aggravated child pornography, specifically
23 including paragraph (1), (2), (3), (4), (5), or (7) of
24 subsection (a) of Section 11-20.1 of the Criminal Code of
25 1961 or the Criminal Code of 2012 where a child engaged in,
26 solicited for, depicted in, or posed in any act of sexual

1 penetration or bound, fettered, or subject to sadistic,
2 masochistic, or sadomasochistic abuse in a sexual context
3 and specifically including paragraph (1), (2), (3), (4),
4 (5), or (7) of subsection (a) of Section 11-20.1B or
5 Section 11-20.3 of the Criminal Code of 1961 where a child
6 engaged in, solicited for, depicted in, or posed in any act
7 of sexual penetration or bound, fettered, or subject to
8 sadistic, masochistic, or sadomasochistic abuse in a
9 sexual context;

10 (27) the defendant committed the offense of first
11 degree murder, assault, aggravated assault, battery,
12 aggravated battery, robbery, armed robbery, or aggravated
13 robbery against a person who was a veteran and the
14 defendant knew, or reasonably should have known, that the
15 person was a veteran performing duties as a representative
16 of a veterans' organization. For the purposes of this
17 paragraph (27), "veteran" means an Illinois resident who
18 has served as a member of the United States Armed Forces, a
19 member of the Illinois National Guard, or a member of the
20 United States Reserve Forces; and "veterans' organization"
21 means an organization comprised of members of which
22 substantially all are individuals who are veterans or
23 spouses, widows, or widowers of veterans, the primary
24 purpose of which is to promote the welfare of its members
25 and to provide assistance to the general public in such a
26 way as to confer a public benefit; or

1 (28) the defendant committed the offense of assault,
2 aggravated assault, battery, aggravated battery, robbery,
3 armed robbery, or aggravated robbery against a person that
4 the defendant knew or reasonably should have known was a
5 letter carrier or postal worker while that person was
6 performing his or her duties delivering mail for the United
7 States Postal Service.

8 For the purposes of this Section:

9 "School" is defined as a public or private elementary or
10 secondary school, community college, college, or university.

11 "Day care center" means a public or private State certified
12 and licensed day care center as defined in Section 2.09 of the
13 Child Care Act of 1969 that displays a sign in plain view
14 stating that the property is a day care center.

15 "Public transportation" means the transportation or
16 conveyance of persons by means available to the general public,
17 and includes paratransit services.

18 (b) The following factors, related to all felonies, may be
19 considered by the court as reasons to impose an extended term
20 sentence under Section 5-8-2 upon any offender:

21 (1) When a defendant is convicted of any felony, after
22 having been previously convicted in Illinois or any other
23 jurisdiction of the same or similar class felony or greater
24 class felony, when such conviction has occurred within 10
25 years after the previous conviction, excluding time spent
26 in custody, and such charges are separately brought and

1 tried and arise out of different series of acts; or

2 (2) When a defendant is convicted of any felony and the
3 court finds that the offense was accompanied by
4 exceptionally brutal or heinous behavior indicative of
5 wanton cruelty; or

6 (3) When a defendant is convicted of any felony
7 committed against:

8 (i) a person under 12 years of age at the time of
9 the offense or such person's property;

10 (ii) a person 60 years of age or older at the time
11 of the offense or such person's property; or

12 (iii) a person physically handicapped at the time
13 of the offense or such person's property; or

14 (4) When a defendant is convicted of any felony and the
15 offense involved any of the following types of specific
16 misconduct committed as part of a ceremony, rite,
17 initiation, observance, performance, practice or activity
18 of any actual or ostensible religious, fraternal, or social
19 group:

20 (i) the brutalizing or torturing of humans or
21 animals;

22 (ii) the theft of human corpses;

23 (iii) the kidnapping of humans;

24 (iv) the desecration of any cemetery, religious,
25 fraternal, business, governmental, educational, or
26 other building or property; or

1 (v) ritualized abuse of a child; or

2 (5) When a defendant is convicted of a felony other
3 than conspiracy and the court finds that the felony was
4 committed under an agreement with 2 or more other persons
5 to commit that offense and the defendant, with respect to
6 the other individuals, occupied a position of organizer,
7 supervisor, financier, or any other position of management
8 or leadership, and the court further finds that the felony
9 committed was related to or in furtherance of the criminal
10 activities of an organized gang or was motivated by the
11 defendant's leadership in an organized gang; or

12 (6) When a defendant is convicted of an offense
13 committed while using a firearm with a laser sight attached
14 to it. For purposes of this paragraph, "laser sight" has
15 the meaning ascribed to it in Section 26-7 of the Criminal
16 Code of 2012; or

17 (7) When a defendant who was at least 17 years of age
18 at the time of the commission of the offense is convicted
19 of a felony and has been previously adjudicated a
20 delinquent minor under the Juvenile Court Act of 1987 for
21 an act that if committed by an adult would be a Class X or
22 Class 1 felony when the conviction has occurred within 10
23 years after the previous adjudication, excluding time
24 spent in custody; or

25 (8) When a defendant commits any felony and the
26 defendant used, possessed, exercised control over, or

1 otherwise directed an animal to assault a law enforcement
2 officer engaged in the execution of his or her official
3 duties or in furtherance of the criminal activities of an
4 organized gang in which the defendant is engaged; or

5 (9) When a defendant commits any felony and the
6 defendant knowingly video or audio records the offense with
7 the intent to disseminate the recording.

8 (c) The following factors may be considered by the court as
9 reasons to impose an extended term sentence under Section 5-8-2
10 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

11 (1) When a defendant is convicted of first degree
12 murder, after having been previously convicted in Illinois
13 of any offense listed under paragraph (c)(2) of Section
14 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
15 within 10 years after the previous conviction, excluding
16 time spent in custody, and the charges are separately
17 brought and tried and arise out of different series of
18 acts.

19 (1.5) When a defendant is convicted of first degree
20 murder, after having been previously convicted of domestic
21 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
22 (720 ILCS 5/12-3.3) committed on the same victim or after
23 having been previously convicted of violation of an order
24 of protection (720 ILCS 5/12-30) in which the same victim
25 was the protected person.

26 (2) When a defendant is convicted of voluntary

1 manslaughter, second degree murder, involuntary
2 manslaughter, or reckless homicide in which the defendant
3 has been convicted of causing the death of more than one
4 individual.

5 (3) When a defendant is convicted of aggravated
6 criminal sexual assault or criminal sexual assault, when
7 there is a finding that aggravated criminal sexual assault
8 or criminal sexual assault was also committed on the same
9 victim by one or more other individuals, and the defendant
10 voluntarily participated in the crime with the knowledge of
11 the participation of the others in the crime, and the
12 commission of the crime was part of a single course of
13 conduct during which there was no substantial change in the
14 nature of the criminal objective.

15 (4) If the victim was under 18 years of age at the time
16 of the commission of the offense, when a defendant is
17 convicted of aggravated criminal sexual assault or
18 predatory criminal sexual assault of a child under
19 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)
20 of Section 12-14.1 of the Criminal Code of 1961 or the
21 Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

22 (5) When a defendant is convicted of a felony violation
23 of Section 24-1 of the Criminal Code of 1961 or the
24 Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
25 finding that the defendant is a member of an organized
26 gang.

1 (6) When a defendant was convicted of unlawful use of
2 weapons under Section 24-1 of the Criminal Code of 1961 or
3 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing
4 a weapon that is not readily distinguishable as one of the
5 weapons enumerated in Section 24-1 of the Criminal Code of
6 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

7 (7) When a defendant is convicted of an offense
8 involving the illegal manufacture of a controlled
9 substance under Section 401 of the Illinois Controlled
10 Substances Act (720 ILCS 570/401), the illegal manufacture
11 of methamphetamine under Section 25 of the Methamphetamine
12 Control and Community Protection Act (720 ILCS 646/25), or
13 the illegal possession of explosives and an emergency
14 response officer in the performance of his or her duties is
15 killed or injured at the scene of the offense while
16 responding to the emergency caused by the commission of the
17 offense. In this paragraph, "emergency" means a situation
18 in which a person's life, health, or safety is in jeopardy;
19 and "emergency response officer" means a peace officer,
20 community policing volunteer, fireman, emergency medical
21 technician-ambulance, emergency medical
22 technician-intermediate, emergency medical
23 technician-paramedic, ambulance driver, other medical
24 assistance or first aid personnel, or hospital emergency
25 room personnel.

26 (8) When the defendant is convicted of attempted mob

1 action, solicitation to commit mob action, or conspiracy to
2 commit mob action under Section 8-1, 8-2, or 8-4 of the
3 Criminal Code of 2012, where the criminal object is a
4 violation of Section 25-1 of the Criminal Code of 2012, and
5 an electronic communication is used in the commission of
6 the offense. For the purposes of this paragraph (8),
7 "electronic communication" shall have the meaning provided
8 in Section 26.5-0.1 of the Criminal Code of 2012.

9 (d) For the purposes of this Section, "organized gang" has
10 the meaning ascribed to it in Section 10 of the Illinois
11 Streetgang Terrorism Omnibus Prevention Act.

12 (e) The court may impose an extended term sentence under
13 Article 4.5 of Chapter V upon an offender who has been
14 convicted of a felony violation of Section 11-1.20, 11-1.30,
15 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or
16 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
17 when the victim of the offense is under 18 years of age at the
18 time of the commission of the offense and, during the
19 commission of the offense, the victim was under the influence
20 of alcohol, regardless of whether or not the alcohol was
21 supplied by the offender; and the offender, at the time of the
22 commission of the offense, knew or should have known that the
23 victim had consumed alcohol.

24 (Source: P.A. 97-38, eff. 6-28-11, 97-227, eff. 1-1-12; 97-333,
25 eff. 8-12-11; 97-693, eff. 1-1-13; 97-1108, eff. 1-1-13;
26 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-14, eff.

1 1-1-14; 98-104, eff. 7-22-13; 98-385, eff. 1-1-14; 98-756, eff.
2 7-16-14.)

3 Section 230. The Secure Residential Youth Care Facility
4 Licensing Act is amended by changing Section 45-10 as follows:

5 (730 ILCS 175/45-10)

6 Sec. 45-10. Definitions. As used in this Act:

7 "Department" means the Illinois Department of Corrections.

8 "Director" means the Director of Corrections.

9 "Secure residential youth care facility" means a facility

10 (1) where youth are placed and reside for care, treatment, and
11 custody; (2) that is designed and operated so as to ensure that
12 all entrances and exits from the facility, or from a building
13 or distinct part of a building within the facility, are under
14 the exclusive control of the staff of the facility, whether or
15 not the youth has freedom of movement within the perimeter of
16 the facility or within the perimeter of a building or distinct
17 part of a building within the facility; and (3) that uses
18 physically restrictive construction including, but not limited
19 to, locks, bolts, gates, doors, bars, fences, and screen
20 barriers. This definition does not include jails, prisons,
21 detention centers, or other such correctional facilities;
22 State operated mental health facilities; or facilities
23 operating as psychiatric hospitals under a license pursuant to
24 the ID/DD Community Care Act, the MC/DD Act, the Nursing Home

1 Care Act, the Specialized Mental Health Rehabilitation Act of
2 2013, or the Hospital Licensing Act.

3 "Youth" means an adjudicated delinquent who is 18 years of
4 age or under and is transferred to the Department pursuant to
5 Section 3-10-11 of the Unified Code of Corrections.

6 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,
7 eff. 1-1-12; 97-813, eff. 7-13-12.)

8 Section 235. The Code of Civil Procedure is amended by
9 changing Section 2-203 as follows:

10 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

11 Sec. 2-203. Service on individuals.

12 (a) Except as otherwise expressly provided, service of
13 summons upon an individual defendant shall be made (1) by
14 leaving a copy of the summons with the defendant personally,
15 (2) by leaving a copy at the defendant's usual place of abode,
16 with some person of the family or a person residing there, of
17 the age of 13 years or upwards, and informing that person of
18 the contents of the summons, provided the officer or other
19 person making service shall also send a copy of the summons in
20 a sealed envelope with postage fully prepaid, addressed to the
21 defendant at his or her usual place of abode, or (3) as
22 provided in Section 1-2-9.2 of the Illinois Municipal Code with
23 respect to violation of an ordinance governing parking or
24 standing of vehicles in cities with a population over 500,000.

1 The certificate of the officer or affidavit of the person that
2 he or she has sent the copy in pursuance of this Section is
3 evidence that he or she has done so. No employee of a facility
4 licensed under the Nursing Home Care Act, the Specialized
5 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
6 Community Care Act, or the MC/DD Act shall obstruct an officer
7 or other person making service in compliance with this Section.
8 An employee of a gated residential community shall grant entry
9 into the community, including its common areas and common
10 elements, to a process server authorized under Section 2-202 of
11 this Code who is attempting to serve process on a defendant or
12 witness who resides within or is known to be within the
13 community. As used in this Section, "gated residential
14 community" includes a condominium association, housing
15 cooperative, or private community.

16 (b) The officer, in his or her certificate or in a record
17 filed and maintained in the Sheriff's office, or other person
18 making service, in his or her affidavit or in a record filed
19 and maintained in his or her employer's office, shall (1)
20 identify as to sex, race, and approximate age the defendant or
21 other person with whom the summons was left and (2) state the
22 place where (whenever possible in terms of an exact street
23 address) and the date and time of the day when the summons was
24 left with the defendant or other person.

25 (c) Any person who knowingly sets forth in the certificate
26 or affidavit any false statement, shall be liable in civil

1 contempt. When the court holds a person in civil contempt under
2 this Section, it shall award such damages as it determines to
3 be just and, when the contempt is prosecuted by a private
4 attorney, may award reasonable attorney's fees.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-104, eff. 7-22-13; 98-966, eff. 1-1-15.)

7 Section 240. The Consumer Fraud and Deceptive Business
8 Practices Act is amended by changing Section 2BBB as follows:

9 (815 ILCS 505/2BBB)

10 Sec. 2BBB. Long term care facility, ID/DD facility, MC/DD
11 facility, or specialized mental health rehabilitation
12 facility; Consumer Choice Information Report. A long term care
13 facility that fails to comply with Section 2-214 of the Nursing
14 Home Care Act, ~~or~~ a facility that fails to comply with Section
15 2-214 of the ID/DD Community Care Act, or a facility that fails
16 to comply with Section 2-214 of the MC/DD Act commits an
17 unlawful practice within the meaning of this Act.

18 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
19 eff. 7-13-12; 98-104, eff. 7-22-13.)

20 Section 900. The State Mandates Act is amended by adding
21 Section 8.39 as follows:

22 (30 ILCS 805/8.39 new)

1 Sec. 8.39. Exempt mandate. Notwithstanding Sections 6 and 8
2 of this Act, no reimbursement by the State is required for the
3 implementation of any mandate created by this amendatory Act of
4 the 99th General Assembly.

5 Section 950. No acceleration or delay. Where this Act makes
6 changes in a statute that is represented in this Act by text
7 that is not yet or no longer in effect (for example, a Section
8 represented by multiple versions), the use of that text does
9 not accelerate or delay the taking effect of (i) the changes
10 made by this Act or (ii) provisions derived from any other
11 Public Act.

12 Section 999. Effective date. This Act takes effect July 1,
13 2015.

1 INDEX
2 Statutes amended in order of appearance

3 New Act

- 4 10 ILCS 5/3-3 from Ch. 46, par. 3-3
- 5 10 ILCS 5/4-6.3 from Ch. 46, par. 4-6.3
- 6 10 ILCS 5/4-10 from Ch. 46, par. 4-10
- 7 10 ILCS 5/5-9 from Ch. 46, par. 5-9
- 8 10 ILCS 5/5-16.3 from Ch. 46, par. 5-16.3
- 9 10 ILCS 5/6-50.3 from Ch. 46, par. 6-50.3
- 10 10 ILCS 5/6-56 from Ch. 46, par. 6-56
- 11 10 ILCS 5/19-4 from Ch. 46, par. 19-4
- 12 10 ILCS 5/19-12.1 from Ch. 46, par. 19-12.1
- 13 10 ILCS 5/19-12.2 from Ch. 46, par. 19-12.2
- 14 20 ILCS 105/4.04 from Ch. 23, par. 6104.04
- 15 20 ILCS 105/4.08
- 16 20 ILCS 1705/15 from Ch. 91 1/2, par. 100-15
- 17 20 ILCS 2310/2310-550 was 20 ILCS 2310/55.40
- 18 20 ILCS 2310/2310-560 was 20 ILCS 2310/55.87
- 19 20 ILCS 2310/2310-565 was 20 ILCS 2310/55.88
- 20 20 ILCS 2310/2310-625
- 21 20 ILCS 2407/52
- 22 20 ILCS 2630/7.5
- 23 20 ILCS 3501/801-10
- 24 20 ILCS 3960/3 from Ch. 111 1/2, par. 1153
- 25 20 ILCS 3960/12 from Ch. 111 1/2, par. 1162

1 20 ILCS 3960/13 from Ch. 111 1/2, par. 1163
2 20 ILCS 3960/14.1
3 35 ILCS 5/806
4 35 ILCS 105/3-5
5 35 ILCS 110/3-5
6 35 ILCS 110/3-10 from Ch. 120, par. 439.33-10
7 35 ILCS 115/3-5
8 35 ILCS 115/3-10 from Ch. 120, par. 439.103-10
9 35 ILCS 120/2-5
10 35 ILCS 200/15-168
11 35 ILCS 200/15-170
12 35 ILCS 200/15-172
13 70 ILCS 3615/4.03 from Ch. 111 2/3, par. 704.03
14 210 ILCS 3/15
15 210 ILCS 5/3 from Ch. 111 1/2, par. 157-8.3
16 210 ILCS 9/10
17 210 ILCS 9/35
18 210 ILCS 9/55
19 210 ILCS 9/145
20 210 ILCS 28/10
21 210 ILCS 28/50
22 210 ILCS 30/3 from Ch. 111 1/2, par. 4163
23 210 ILCS 30/4 from Ch. 111 1/2, par. 4164
24 210 ILCS 30/6 from Ch. 111 1/2, par. 4166
25 210 ILCS 45/1-113 from Ch. 111 1/2, par. 4151-113
26 210 ILCS 45/2-201.5

1	210 ILCS 45/3-202.5	
2	210 ILCS 47/1-101.05	
3	210 ILCS 47/1-113	
4	210 ILCS 47/2-218 rep.	
5	210 ILCS 49/1-102	
6	210 ILCS 55/2.08	
7	210 ILCS 60/3	from Ch. 111 1/2, par. 6103
8	210 ILCS 60/4	from Ch. 111 1/2, par. 6104
9	210 ILCS 85/3	
10	210 ILCS 85/6.09	from Ch. 111 1/2, par. 147.09
11	210 ILCS 85/6.09a	
12	210 ILCS 85/7	from Ch. 111 1/2, par. 148
13	210 ILCS 87/10	
14	210 ILCS 135/4	from Ch. 91 1/2, par. 1704
15	225 ILCS 10/2.06	from Ch. 23, par. 2212.06
16	225 ILCS 46/15	
17	225 ILCS 70/4	from Ch. 111, par. 3654
18	225 ILCS 70/17	from Ch. 111, par. 3667
19	225 ILCS 85/3	
20	225 ILCS 510/3	from Ch. 111, par. 953
21	305 ILCS 5/5-5	from Ch. 23, par. 5-5
22	305 ILCS 5/5-5.7	from Ch. 23, par. 5-5.7
23	305 ILCS 5/5-5.12	from Ch. 23, par. 5-5.12
24	305 ILCS 5/5-5e	
25	305 ILCS 5/5-6	from Ch. 23, par. 5-6
26	305 ILCS 5/5B-1	from Ch. 23, par. 5B-1

1	305 ILCS 5/5E-5	
2	305 ILCS 5/8A-11	from Ch. 23, par. 8A-11
3	305 ILCS 5/11-4.1	
4	305 ILCS 5/12-4.25	from Ch. 23, par. 12-4.25
5	305 ILCS 40/5	from Ch. 23, par. 7100-5
6	320 ILCS 20/2	from Ch. 23, par. 6602
7	320 ILCS 42/10	
8	405 ILCS 5/2-107	from Ch. 91 1/2, par. 2-107
9	405 ILCS 40/1	from Ch. 91 1/2, par. 1151
10	405 ILCS 45/3	from Ch. 91 1/2, par. 1353
11	405 ILCS 80/2-3	from Ch. 91 1/2, par. 1802-3
12	405 ILCS 80/5-1	from Ch. 91 1/2, par. 1805-1
13	410 ILCS 50/6	
14	425 ILCS 10/1	from Ch. 127 1/2, par. 821
15	720 ILCS 5/12-4.4a	
16	720 ILCS 5/26-1	from Ch. 38, par. 26-1
17	730 ILCS 5/5-5-3.2	
18	730 ILCS 175/45-10	
19	735 ILCS 5/2-203	from Ch. 110, par. 2-203
20	815 ILCS 505/2BBB	
21	30 ILCS 805/8.39 new	